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ONTARIO ADVISORY COMMITTEE ON CONFEDERATION

M E E T I N G

held at

Parliament Buildings.
Toronto

on

FRIDAY MARCH 19 1965

VERBATIM REPORT OF PROCEEDINGS



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ONTARIO ADVISORY COMMITTEE ON CONFEDERATION

--- Meeting held at Queen's Park, Ontario,
(Room 263) on Friday, March 19, 1965.

PRESENT:

Professor Ian Macdonald, Chief Economist,
Department of Economics & Development
(In the chair)

Professor Alexander Brady,
Department of Political Economy, University of
Toronto.

Professor John Conway, Department of Humanities,
York University.

Professor Donald Creighton, B.A., M.A.,
Department of History, University of Toronto

Dean Richard Dillon, Faculty of Engineering,
University of Western Ontario

Dr. Eugene Forsey,

Professor Paul W. Fox, M.A., Ph.D.,
Professor of Political Science, Department of
Political Economy, University of Toronto.

Mr. George Gathercole, 1st Vice-Chairman,
Hydro-Electric Power Commission of Ontario.

Professor Bora Laskin, Q.C., Faculty of Law,
University of Toronto

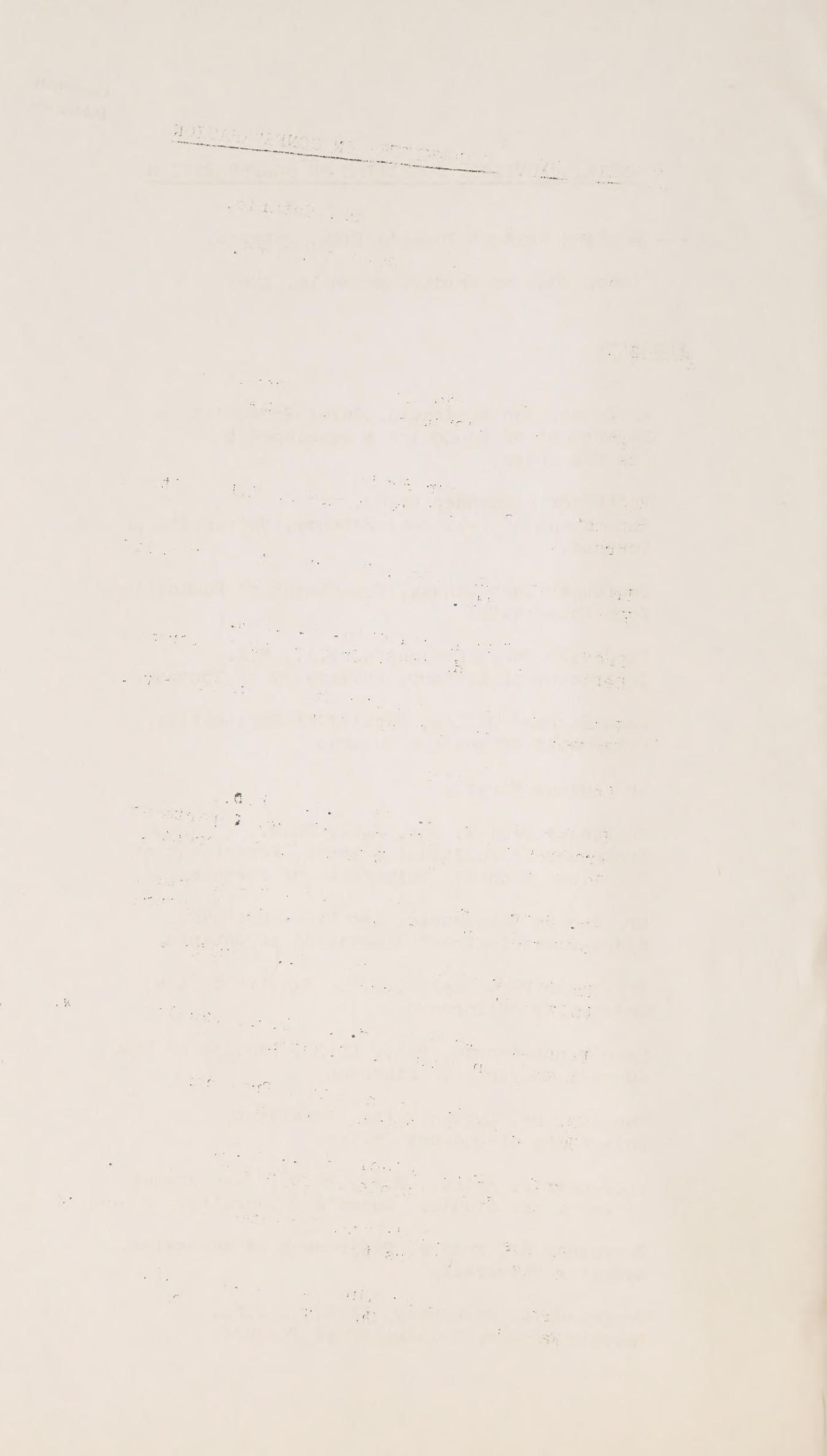
Dean W.R. Lederman, B.A., LL.B., Faculty of Law,
Queen's University, Kingston

The Rev. Dr. Lucien Matte, President,
University of Sudbury College

Professor J. Meisel, M.A., Ph.D., Department
of Political Studies, Queen's University.

Professor R.C. McIvor, Department of Economics,
McMaster University

Professor E. McWhinney, LL.M., S.J.D.,
Faculty of Law, University of Toronto



Mr. J. Harvey Perry,

Mr. Roger N. Seguin, Q.C.,

Professor T.H.B. Symons,
President and Vice-Chancellor,
Trent University.

Mr. D. Stevenson) Co-Secretaries.
Mr. R. Farrell)

--- The meeting commenced at 10.00 A.M.

THE CHAIRMAN: Gentlemen, we are two short of our full quota, but we have a long day ahead of us and I think we had best begin.

I first want to welcome you all to this room and to the work of this committee. Although this room appears to be slightly austere in some respects and not a little warm, I find, I hope we will have an informal setting nonetheless in our discussions.

The first thing I should perhaps say, although I am sure it is presuming for most of you, is to introduce everyone who is present here. I know most of you know each other and most of you know about each other, but there may be one or two who do not.

As a helpful guide in that, I have passed around the copy of the proceedings in the Legislature in the evening of February 23rd, in which Mr. Robarts announced the personnel of the committee and spoke in some part about its terms of reference and its work.

On page 726 and on, you will see some commentary there, punctuated with some good parliamentary philosophy and amusing commentary. On page 730, for example, Mr. Sopha asks:

"Do you have to be a Rhodes Scholar to get on that committee?"

and when told "no" he said that nonetheless he is not impressed by Rhodes scholars anyway.

Perhaps more fittingly in the next page, Mr. Bryden asks, when the full complement has been reported and the eighteen members identified, he asks: "Are you going to build a senate chamber for them to meet in?".

When Mr. Perry is identified as the Executive Director of the Canadian Bankers Association but before his other many qualifications for this committee are identified, Mr. Sopha merely interjects: "Oh God".

Nonetheless, the committee survived the lashing whip of the House and here we are.

Just going around the table, if I may, to my immediate right is Mr. Gathercole, the first vice-Chairman of the Hydro-Electric Power Commission of Ontario.

Dean Lederman, Faculty of Law, Queen's University.

Professor Meisel, Professor of Political Science, Queen's University.

Professor Brady, Political Science, University of Toronto.

Professor Conway, History, York University.

Dean Dillon of the Faculty of Engineering Science, University of Western Ontario.

Professor Bora Laskin of the Faculty of

Law, University of Toronto.

President Thomas Symons, of Trent University.

Professor McIvor, Professor of Economics
at McMaster.

Professor Donald Creighton, Department of
History, University of Toronto.

Father Matte, President of the University
of Sudbury.

Mr. Seguin, Barrister, of Ottawa.

Dr. Eugene Forsey, Canadian Labour Congress.

Then on my immediate left, Mr. Harvey Perry,
the aforementioned Executive Director of the
Canadian Bankers Association, and a member of the
Carter Committee on Taxation.

Professor McWhinney of the Faculty of Law,
University of Toronto.

Professor Fox of the Department of Political
Economy, University of Toronto.

The Prime Minister announced the formation
of the Committee in the Speech from the Throne,
and I know that in writing to all of you personally,
he has said something about the importance which
he personally attaches to the work of the Committee
and the reasons for its establishment.

I am not going to say too much about that
at this moment because at dinner this evening
Mr. Robarts will speak about his interpretation
of the work of the Committee, its relationship

to him, and the expectations he has of it; and at that point he would like to have you discuss with him and perhaps explore some of the more practical interpretations of its formation and to consider some of the questions that may be in your minds in terms of our relationship to the Prime Minister and to the Government of Ontario.

He has said, however, that in the first place he feels that at this time in the reconstruction of Confederation, that the Prime Minister of Ontario should be in a position where from day to day he does not have to take a position or take a stand without the best advice, without the best counsel, without the best guidance that he can muster.

That is the principal reason for this committee. He feels that our perspective is such that we are primarily concerned, of course, with Ontario, but in interpreting the concern of Ontario, we look upon this as the concern of the country as a whole. The normal process of government with the Prime Minister and Cabinet drawing upon the advice of the civil service, is then, in a sense, being complemented by this group of advisors who will be in a position to offer personal advice to him.

I think, as far as I can see, that the approach that we can take probably boils down to

two matters. In the first place, we will meet, I presume, periodically, as we are today, and my task then will be to try and sift down the discussion and convey the meaning of it to him -- with the aid of two assistants, whom I would like to introduce at this point. They are seated on the far side: Mr. Ray Farrell, Executive officer, from the Prime Minister's Department; Mr. Don Stevenson, who is Director of the Economics Branch in my own department. Both of them have had considerable experience and I have directly of Federal-Provincial conferences and workaday matters, and they will be functioning as co-secretaries to the Committee and help me to follow up and follow through upon our work.

Turning to the second point, in addition to the advice, I presume and I hope that we will want to establish certain research projects which we may undertake directly, or, more likely, commission young scholars in the university to work on for us.

I think this is an appropriate manner of approach, in view of the development of new universities and the changing character of universities in the province.

We have taking notes for us, a Court Reporter here, and I would emphasize and stress, of course, that these discussions are entirely private and

will be treated as private. The purpose of the reporter here is merely to assist Mr. Farrell and Mr. Stevenson and myself in having some record from which we can sift out the relevant matters.

My role as Chairman in this galaxy of experts, is simply this, and perhaps I can say a word or two in explanation of that, of the process that is presently taking place within the Government of Ontario.

I was appointed a few months ago to begin duties as Chief Economist, but on the understanding that one of the principal responsibilities for that office would be to pull together and to co-ordinate the work in the government dealing with federal-provincial matters and inter-governmental matters.

Now, a great deal of work has been done in these problems in various government departments, and it is the view of the government at this time that rather than following the example of some other areas in having a separate department of federal-provincial relations, that rather matters of federal-provincial relations are a reflection of the work of all the departments of government, and that many departments of government are dealing day to day in federal-provincial relations and federal-provincial affairs.

What is really important is to have some

focal point and some co-ordinating point that will pull these things together.

Mr. Gathercole here, for example, in the past has been author and practitioner of a great many standing arrangements which now exist in federal-provincial matters, and these things we are trying to pull together in a systematic way.

More particularly in the government there is another committee of which I am Chairman, known as the Committee on Federal-Provincial Fiscal Relations and Tax Structure. Now, on that Committee I have members from the Treasury Department, Department of Economics and Development, Department of Municipal Affairs, and we are pulling together the economic and the taxation material which is necessary for the province to represent its position before the Federal Tax Structure Committee which is preparing for 1967 the basis of the new tax agreements and tax arrangements.

In that process we will be drawing upon the work of another group which has been sitting, of which Professor McIvor is a member -- the Ontario Committee on Taxation. That Committee, before this year is out, will, hopefully, have submitted its report.

So that I sit in this happy position of perhaps not being properly one of the experts, as you are, but rather to try and co-ordinate the

outside advice, so to speak, that the government will receive in this area, the inside work that is being done in the Civil Service, and try, in the Prime Minister's words, to provide the type of continuity which is required to take a systematic approach to these problems.

Now, that is all I really wish to say by way of introduction.

With your permission, I have arranged the agenda in this way deliberately. I have mentioned some of the ways we might approach our work in terms of the discussion here, and in terms of research, but with your permission I would suggest we defer until later in the day a consideration of the practical questions of our function. For example, those matters I have referred to in item 5 of the Agenda: the frequency of this Committee's meetings, the possible construction of sub-committees, the frequency of meetings of sub-committees, the types of research projects we should undertake, and the type of arrangements we should establish for providing you with information, with studies, with papers that you might wish to have.

I hope no one feels I was presumptuous in sending out the two documents I sent out last week, which I know all of you would have seen, but I am trying to establish the beginnings of a systematic arrangement of sending out material so that those

members of the Committee who are working in some areas of the whole canvas will have access to this in as easy a manner as possible.

Now, as far as the heart of the agenda is concerned, I thought that if we deferred the practical matters to later on and used the Committee for general discussion of some of the points in Sections 2 and 3, that by the time we had tested the water, we might later in the day be in a position to hammer out a programme.

I know that Mr. Robarts would like to feel, and I would too, and I am sure you would, that by the end of the day we had been able to identify fairly clearly what issues we considered to be of immediate importance, what research projects we might be prepared to undertake or commission, and in what manner we might wish to explore those projects.

Now, the items I have laid down in Sections 2 and 3 are far-reaching subjects, and just about cover the waterfront. I am not presuming we will solve all these problems today, but what I tried to do was to gather together as well as I could in two sections what I thought were some of the matters that would concern us.

Under "Federalism in Canada" I have tried to raise some of the more philosophical questions so to speak, some of the historical questions:

really, to start from the assumption that if a federal state is a man-made institution, what is its meaning and relevancy in Canada?

Secondly, I have tried to set out some more technical questions, some more practical questions that are in the air today and will probably assume greater importance in the near future.

Beyond that, gentlemen, I am in your hands, and I have already talked too long. Perhaps I could ask for any comments or questions you want to raise initially.

PROF. LASKIN: I take it, Mr. Chairman, we are also going to be asked to undertake tasks that the Government may choose to assign to us.

THE CHAIRMAN: Yes.

PROF. LASKIN: This is in our terms of reference.

THE CHAIRMAN: The third item in the terms of reference:

"Such matters and questions as the

"Government may from time to time refer
"to the Committee."

PROF. LASKIN: Mine was just a general enquiry, whether the Government has anything in mind by way of specific reference at this time.

THE CHAIRMAN: Not at this juncture, and I discussed that earlier in the week with Mr. Robarts. He felt that there was no particular

matter he wanted to lay before us this morning, but I think it would be well to try that out again this evening when we are at dinner.

DR. FORSEY: Has everyone else got the terms of reference? I do not appear to have them, unless they are concealed in the Hansard here.

THE CHAIRMAN: I understood that it had gone out in the first letter.

PROF. LASKIN: In the letter from the Premier inviting you to serve.

DR. FORSEY: I don't think I got them.

THE CHAIRMAN: I can recite them briefly. They are three:

"1. Matters in relation to and arising "out of the position of Ontario in "Confederation.

"2. The present and future constitutional "requirements of Ontario considered both "independently of and in relation to the "constitutional changes and amendments "which have been established or are being "studied by any persons or by the federal "Government,

"3. ----"

the one to which Professor Laskin has just referred:

"3. Such specific matters and questions ". . . as the government may from time "to time refer to the Committee."

DR. FORSEY: Thanks.

MR. PERRY: Mr. Chairman, I wonder if you might give us a clear indication on what the sort of general modus operandi will be here. I think the subjects suggested are all very worthy. They are also the sort of thing about which we could go on talking for days or weeks without really coming down very pointedly, I am afraid.

Might it be appropriate to set up task forces or teams, or whatever you wish to call them, to develop background and proposals in individual areas, to be laid before the whole group?

This is not really a very original thought, because it is the way most unwieldy organizations operate. I was wondering if we started out with that sort of approach in mind, we might in fact save ourselves quite a bit of wandering in the wilderness as a group.

MR. GATHERCOLE: I think the Committee is feeling its way, and certainly in my mind that represents my own particular thinking, that the Prime Minister, as I take it, has established this Committee with a high expectation that out of it will come some suggestions which will have, particularly, I think, over the longer term, a useful effect, in accordance with the carrying out of the goals that he has set out in his objectives.

Now, personally I do not see anything

adverse in sort of threshing around in this field for a while, just to see if that would not crystallize some of the collective thinking or individual thinking of all of us, so that in the end perhaps something of what you suggest might be merged.

At the moment, I for one would not feel that I could suggest any specific assignment that a task force or a number of task forces or groups of us, individual groups of us, could undertake. I do not think we are sure enough of our ground.

Nevertheless, I would not consider myself some pretty free-wheeling discussion in this field which has so many ramifications, to be devoid of some useful purpose. It has many facets beyond any question, but I do not think there is any immediate result.

Mr. Chairman, you are in a much better position, and I am in no position, to know what the Prime Minister really has in mind, but my conviction is that nothing of an immediate end is sought from this Committee.

PROF. LASKIN: I would like to say a word about that. Looking around this room, I think that if federalism is the well known elephant, I think all of us seemed to have touched the animal in different parts; and what we are concerned with here really is to find out what kind of consensus we can bring to bear on this animal from our

different points of view.

I could think, for example, that we might discuss, to take the very fine point, what changes have taken place since Confederation and so on, perhaps we might discuss something that we have heard as controversial as (bite my tongue) let us say, the amending formula. Say we wanted to discuss changes that have taken place in the relationship of the two levels of government on the administration of justice -- one we can all be very virtuous about -- well, it seems to me that might be an area that we could discuss.

Another area that we could discuss under the terms of changes, looking at Harvey Perry down there, is the tax relations; but then, you see, there are committees that are already sitting on that, and one wonders whether we could add substantially ... or at all to what they are doing, without knowing what recommendations they are going to bring out.

But it seems to me we have got to get down to something around which we can focus whatever talent we can bring to bear. If we are going to talk about federalism in the air, we are not going to get anywhere.

I think there is merit in what Mr. Perry has said. Maybe it is too early to do it at ten-thirty, but it may not be too early to do it at twelve-thirty.

THE CHAIRMAN: I did not want to predispose the Committee, which is why I left the practical arrangements until a later stage, although I quite agree and I may as well say that as I foresee this thing developing, there are times when the Prime Minister may resort to category 3 and call us together to talk about such particular matters as may arise from time to time in the conduct of government and in the policy bearing on federal-provincial affairs; but normally I think our task is one of the longer run study process, and I think what we really want to do is form ourselves into sub-committees.

Now, whether those sub-committees should be functional in the sense that one is concerned with cultural questions and another with the legal questions and another with economic questions and so on, or whether they should be more heterogeneous groups, we can decide.

Then those committees could either themselves undertake the particular research projects or I think more normally, as would be your mood, would commission studies to be done which we can then use as a basis of further discussion.

I should have said earlier that as far as the practical question of what money is available, I can only report simply that Mr. Robarts has said to me: "Well, you are the research man, you

will know what these jobs will cost". I didn't say that was not entirely true, but I hope I have an idea what these things will cost. Then he said that he would provide us with the backing required, so I think we have a fairly open mandate on that point.

PROF. CREIGHTON: Mr. Chairman, just proceeding from the point made by Mr. Perry and Mr. Laskin, if you take, for example, that very first item in division 2:

"Changes that have taken place since
"Confederation in the relationship between
"the provinces and between the provinces
"and the federal Government"

this surely is an enormous subject, of course, if we take it literally and attempt an historical appreciation about the importance of those changes. They are enormous and they are in every way.

It seems to me that this is something that we have really to some extent got to take for granted. I mean, up to this point surely these things to a very large extent are irreversible: they are done, they are finished. Surely, as we move along at least, we all know something of what has happened since then, but this is another inquiry surely that we are not really charged to undertake, I should think. This is the first one. Is that your feeling or the feeling of the

2. *Calculus of Variations* (cont'd.)

3. *Calculus of Variations* (cont'd.)

4. *Calculus of Variations* (cont'd.)

5. *Calculus of Variations* (cont'd.)

3. *Calculus of Variations*

6. *Calculus of Variations* (cont'd.)

7. *Calculus of Variations* (cont'd.)

8. *Calculus of Variations* (cont'd.)

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21. *Calculus of Variations* (cont'd.)

22. *Calculus of Variations* (cont'd.)

23. *Calculus of Variations* (cont'd.)

24. *Calculus of Variations* (cont'd.)

25. *Calculus of Variations* (cont'd.)

Committee?

DR. FORSEY: I agree entirely.

DEAN LEDERMAN: Mr. Chairman, the changes that have occurred have reflected themselves in a lot of new inter-governmental practices and techniques for which I suppose the phrase "co-operative federalism" is as good a phrase as any to gather them under one heading; but there are a number of quite different things going on under this heading. Some of them have been with us for a long time.

There is a form of federal-provincial co-operation and inter-action that has been going on from the beginning in the administration of justice. The federal Parliament has been making the criminal law, but the provincial Attorneys General have been administering it. In some provinces you get the federal police force operating under the provincial and county genera in enforcing the federal Criminal Code, and in the two largest provinces the provincial police force.

If the development of the welfare state means that the positive processes of government, both in the provincial and the federal level, are becoming more and more interlocked and inter-acting, I think that that is one field where we ought to concentrate some study and spell out just what those devices and techniques for co-operation are

and what their constitution and legal basis is and what their implications are for federalism, and where they are taking us.

For instance, there is a great deal of interest in and some apprehension about the delegation formula and the new proposed amending formula. Yet, of course, as much has been possible ever since the Prince Edward Island Potato Board case was decided a good many years ago in the way of skeleton federal statutes delegating almost plenary policy-making powers to provincial boards. This is what happened with the Motor Vehicles Board in the inter-provincial trucks and buses.

In the field of taxation, concurrent with both, you have the two levels of government agreeing, or at least coming to a stand-off about what use each is going to make of its taxing powers and at what price the provinces will refrain from using their taxing powers.

This legislation by reference or adoption, federal statutes adopting provincial statutes, has been used for some of the National Parks and for the military camp at Camp Borden and so on.

Whatever the future holds, if the country holds together -- and I have faith that it will -- it means increasing involvement at every level of the federal and provincial officialdom; and although I have not thought this out very carefully

at this point, my suggestion would be that we plunge into these specifics of these devices and techniques of co-operation.

PROF. CREIGHTON: That is one part only of this enormous range of changes that have taken place. I mean, if we started at Confederation and traced them to our present day, it is really ---

PROF. McWHINNEY: It is in general true what Mr. Lederman says -- these informal conventional processes of changes of the constitution have not been satisfactorily put down on paper.

PROF. CREIGHTON: I think this is a very important part of the inquiry but I think it is only part of the changes.

PROF. McWHINNEY: I would agree, but I think we are all aware that the Dominion-Provincial Premiers Conferences have made very basic changes at the provincial level but it is very hard to get information about them.

There is another very material question, and it is bound up really, I suppose, with the conception of the scope and purpose of the Committee. There are wildly conflicting interpretations as to what has taken place since Confederation and whether it is a good thing or a bad thing.

For example, I will be speaking at some later stage when we get to the discussion of the scope and purpose of the Committee, on the

Quebec Expert Committee of forty that is advising the Bipartisan Committee, has been wrestling with this material and putting forward some very interesting hypotheses on the trends and directions since 1867; and it is quite possible that the concensus here might make a different interpretation and a different appraisal of whether this is a good thing or a bad thing.

PROF. McWHINNEY: I think that particular aspect is past history.

PROF. CREIGHTON: It is tremendously interesting to me and I wonder whether this Committee wants to embark on an appreciation of this kind. It is an enormous task, I would say.

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PROF. McWHINNEY: If there is a debate, then I think in a sense the province is forced to take a position on this. Whether this Committee should is another matter, but I do not see how the province can avoid taking a position say, for example, if the Quebec Committee puts up certain conclusions that we would feel we would not agree with as a province.

PROF. BRADY: Mr. Chairman, do you contemplate that the Committee agrees upon some document that summarizes, as it were, what it thinks, say that the present direction of changes in federalism, legal, economic or social may require? I assume we have to arrive at some kind of statement.

I mean, to discuss across the table might be a most interesting enterprise, but clearly we should try to arrive at some kind of statement. Am I right in that assumption?

THE CHAIRMAN: Well, yes and no. To arrive at some sort of statement in the sense of producing a consensus of opinion and blueprint for the lines that the province may follow. On the other hand, I think we do not want to confine ourselves, as you say, just to discussion across the table. We should produce some comprehensive examination of these questions, which presumably will not only be useful to the Government but, I suppose, would set us off in further directions.

I feel that we are really more or less faced by the simple problem of finding a starting point here. I don't think there will be any end of questions that either the Government will be interested in or we will be interested in, and I believe both of those approaches are within our scope.

PROF. McWHINNEY: We will not presume to be another B-B Commission holding public hearings. On the other hand, are we to be closer, for example, to the Quebec Expert Committee? Quebec has its Bipartisan Legislation Committee which one understands makes policy as a result of the work of the Expert Committee; but the Expert Committee has been studying all major federal

countries, and I have been told informally that there will be about a five thousand page report coming out of it, appropriately footnoted.

It does not help me here. It is in effect broken up into sub-committees for research and put together in some sort of collective committee view. Is it proposed to be that sort of ---

THE CHAIRMAN: Yes, let me say a bit about that. This is intended to be more on the model of the expert committee of private inquiry, so to speak, rather than a Royal Commission which is going around taking soundings; although again I can only repeat to you what Mr. Robarts has said to me about this. He said this is entirely a matter for the Committee to decide. He presumes that normally our investigations will be the very private expert kind, which is why the Committee is composed as it is. This Committee is not composed on the conventional pattern of cross-representation of a number of groups and positions and so on. It is intended to be a group of experts.

On the other hand he has said the Committee may well feel at some point that they wish to broaden their scope into public enquiry in some form and have some public hearings on a certain point or a certain question.

We will not presume to be going around the province testing grass roots opinion on these

matters, that is not the way we will function; but it may very well be that there is a certain question that we wish to present publicly and wish to elicit wider commentary upon. Then we are quite free to do that if we wish.

I think it would be very useful, and I would like to suggest this to you, that one of the things I think this Committee could do that would make a practical and firm contribution to the debate, is to meet at some juncture with the Quebec counterpart organization, not only to enlighten each other between the two groups on what is going on, but, I think, as a very practical activity in inter-provincial affairs.

DR. FORSEY: Mr. Chairman, I was under the impression that the Committee was to consider rather the present and more particularly the future, than the past. That is why I was so pleased that Professor Creighton said what he did about this first item.

I think one can not get away from some consideration of the history of these things if you are considering what is to be done, but that, it seemed to me, would be incidental. I had a feeling that we were faced with the possibility at least that the celebrated formula would go through, in which case there would probably be demands from various quarters, or proposals from

various quarters for substantive amendments of the existing constitution.

Even if it does not go through, I think there will still be these demands from certain quarters or proposals, whatever you want to call them, for substantive amendments. They will come, I think, notably from the province of Quebec, but they may come from other quarters as well.

It seemed to me that what the Ontario Government was anxious to do was to get some basis for substantive proposals of its own for changes that it thought necessary, and for dealing with substantive proposals from other quarters that it thought unnecessary or harmful.

I think your suggestion of meeting with the Quebec Committee is an exceedingly good one, and I think it would contribute to this; but in the course of the investigations that would have to be made on specific questions, undoubtedly the changes that have taken place since Confederation would come in incidentally. You could not avoid it. But I do not think that first item is primarily our affair, because I should have thought at least that quite clearly there are certain things which have in effect been taken out from under our jurisdiction -- notably the question of taxation. This is being dealt with by other people. Incidentally it is, I suppose, bound to come into

our consideration of other matters, but I should have thought we should be looking rather to the future.

What is going to happen if the formula goes through, or suppose it doesn't go through what is going to happen?

I should have thought also we might have to consider the question of whether we want a totally new constitution. This is the proposal which is now coming forward from a number of quarters, notably in Mr. O'Hearn's book "Peace, Order and Good Government" -- a singularly inept and inappropriate title, I should say; and in Marcel Faribault's book "Ten to One, the Confederation Wager" which I have not yet read but which puts the same kind of thing. Do we want a new kind of constitution? Do we want to open up everything? Is that the way we should approach this question, or should we approach it on the basis of dealing with specific difficulties that have arisen and specific remedies for them?

I have very strong views on this myself and this is not the appropriate time to express them, but I thought this is the kind of question we might be called upon to consider.

MR. GATHERCOLE: Mr. Chairman, I very much concur in what Dr. Forsey has said. I think that while the recitation of what has transpired in the

past might be very useful to us and be a source of background material for discussions, any recommendations that are held or made in the future, nevertheless I think it is the future that we ought to major in.

Dr. Forsey has mentioned some of the proposals that have been made from the province of Quebec, some of them perhaps from other provinces as well.

One of the matters which has caused me a little concern, just to be a little more specific, is the opting out of the province of Quebec in some of the major fields of public services. In opting those out, running its own show in this regard, the Parliament of Canada which has representatives from all the provinces of Canada, will be legislating and assuming responsibilities for the administration of matters of which a large segment of Canada has been contracted out.

This raises a question at least in my mind -- and I recognize the thinking behind it -- but nevertheless the hard reality of the fact that the legislators from an important part of Canada will be sitting upon the consideration of matters of which their ridings, their provinces, their people, have opted out.

Does this mean that under the heading or the guise (however you want to describe it) of

co-operative federalism and co-operation between the provinces and between the federal government is of very vital importance and being one of the major developments, useful developments that has occurred, but nevertheless if this opting out process carries to the degree that some have suggested, and it has already gone a considerable distance: does this mean that we are going to have two states in effect, if not in name, or is it something that we can adjust ourselves to? This is sort of the substance of matters to which I think we ought to be giving some consideration.

Furthermore I was going to ask you this, Mr. Chairman, is our role not that of a sounding board, rather than to go back over any of what has been carried out in the past and say: "Well, the amending procedure is at fault here. We ought to reverse that course", and so on?

I am not saying that that should be left out of our considerations at all, but I think that from this should come some crystallized thought and opinion which would be helpful in guiding the government in the policies which it formulates in the light of what has transpired in the past.

DEAN DILLON: Mr. Chairman, perhaps it might help if we just referred briefly to the preamble of the terms of reference and it says that the government is desirous of seeking

continuing advice in all matters which will assist in performing its part in maintaining and strengthening the unity of Canada. This, I think, is what the last two or three speakers have been touching on, and it is one of the reasons why I am so happy to be here. I think this statement probably defines the object of this Committee more succinctly than anything we have been talking about today.

PROF. McWHINNEY: There is, Mr. Chairman, the very basic issue of the research method involved here. I do not think any of us want to study the past solely as an end in itself, but the past is rather crucial to the appraisal of where you want to go in the future.

From working informally with the Quebec Committee, simply because I saw members of the Quebec Committee who had come here, I know some of the trends and directions in which they are thinking.

We are likely to get a whole series, for example, of specific proposals regarding the reconstitution or reform of the Supreme Court of Canada.

Now, certain assumptions were made which may or may not be true. One of those, for example, is that the record of the Supreme Court of Canada in relation to the Quebec Civil Code has been very bad, and that this is logical and obvious by the fact that common law Judges have been in the

majority.

I think the conclusions may be right, but nothing is really sure because the Quebec people have done the work too quickly and there are no adequate studies in French or English on this point.

You can approach this issue of recommendations for the future in two ways. You can look at your own past history and try to get what lessons you can out of it, or you can do it comparatively. The Quebec Committee is doing both and coming up with certain conclusions which rest on studies, in which I think perhaps they are in error in many places.

As an example of the sort of research I would not like to see done is Appendix 4 to Mr. Favreau's report on the amending power. This purports to be a study of the United States, Swiss, Australian and German institutions. by implication He does not acknowledge even/ the help that he got from at least one member of this group in this work; but this sort of very superficial study just cannot give a true picture of how you change your constitution.

There is the crucial relationship between the formula of amending power and other agencies for change. I think, you see, if you are going to make positive recommendations for change in the future, we have really got to get a little bit more information. I take it this is what Dean

Lederman was referring to in the suggestion of the informal discussion.

We are going to be faced with proposals on the Supreme Court, on the Senate, on the amending power, on perhaps a standing secretariat, Dominion-Provincial secretariat, and all of this performance was based on a study of past history or on studies of experience of other countries.

While I do not think any of us would want simply to be masters of the Committee or masters of sub-committees, I think we have got to get into it to some extent, and this is why I think, unless we give purely subjective opinions -- and as a cross-section I suppose that would still be useful -- we will probably have to contemplate some sort of fundamental and long range research of the sort that the Quebec Committee has been doing for two or three years.

DR. FORSEY: I could not agree more heartily. The point I was making about the past, I do not think we want to consider the past as the past.

The past experience with the Supreme Court, for example, related to proposals for changing the composition of the Supreme Court or its powers or what-not. This is obviously absolutely essential.

PROF. McWHINNEY: Yes.

PROF. McIVOR: Mr. Chairman, I suspect there

is pretty general agreement among the group as to the way in which the study of the past history and development are going to be useful in assessing the present problems and evaluating future change; but I think it is also clear that in any starting into a general discussion of federalism it is extremely difficult in view of the vastness of the area that is here.

We are presumably here as individual members because of some particular specialization or confidence in various corners of this field of federalism, and it is quite clear to me that there are a very substantial number of functional areas that have been touched upon by various speakers.

If you look at the items that you have listed under Sections 2 and 3, you can perhaps consider any one of those dozen functional areas consecutively in terms of the relevance of past changes in the area and present direction of change and so on.

It seems to me that the road to make some significant progress in our task is to try at the earliest opportunity to identify what some of these major functional areas are, and then we can begin to investigate it as working groups and come up with suggestions as the source of research, long term continuing research included, that it seems to me desirable to undertake in these various

areas.

PROF. LASKIN: One could start with the preparation of a glossary of terms, because what Dr. Forsey talked about as co-operative federalism, I prefer to characterize as unco-operative federalism.

DR. FORSEY: I didn't use the term, yes, and I agree with you.

PROF. LASKIN: It may be that we will help the Government if we try to set out clearly some of the conceptions with which they seem to be playing so loosely. That might be something -- I say that jocularly of course -- that might be something that we could usefully add.

THE CHAIRMAN: I couldn't agree more. If anyone was willing to undertake and could define co-operative federalism, I think we would have achieved more than our worth.

PROF. CREIGHTON: Mr. Chairman, it seems to me that the discussion for the last little while has revealed a basic question about the nature and function of this Committee.

I am not so sure as I was when I began talking -- I think I agree with Dr. Forsey, or at least I was first disposed to agree -- that you do very well to begin with the consideration of immediate practical questions; but I have been very impressed by what Prof. McWhinney has said, and

particularly by the mention he has made about the activities of the Committee in Quebec.

He evidently considers that these people are going to approach their problem, which they define in a very ample fashion, in a very general and historical and theoretical fashion, which in my experience is what a number of French-Canadians are very apt to do. My difficulty with them is that so often they start out with historical assumptions which in my view are incorrect and are in fact baseless, and this is what I think ought to be stopped. I think in some cases these are correct, but I think in some cases they are very invalid.

If this is to be the basis, if it is to have an historical and constitutional basis for a norm or structure upon which the whole new conception of Canadian federalism will be built, then I think it is our obligation to go back into this matter and to see whether we can agree upon a philosophy of our own.

Therefore there is still a hesitancy in my mind, there is increasing hesitancy in my mind as to whether this Committee ought to embark, which I certainly never thought when I considered to become a member of it -- on a powerful drive to prepare our view of federalism and to launch into a considerable research programme.

THE HISTORY OF THE CHINESE

BY JAMES B. COOPER, JR., PH.D.

ASSISTANT PROFESSOR OF CHINESE IN THE UNIVERSITY OF TORONTO

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If, on the other hand, we confine ourselves to the present problems with some investigation into the past, it will not meet the situation with which we are very likely to be confronted. This certainly has come up to me individually on a number of different occasions and one wonders, if these vast preparations in Quebec are in fact going on, whether we would be at fault in our duty if we did not attempt to do something comparable.

PROF. MEISEL: Mr. Chairman, I think we have really be talking about two things this morning. Part of the time we have been talking about really research methods, methods of procedure, how we are going to tackle the problems that we are concerned with; but I think that we have assumed practically throughout our talks so far that the problems are ones which deal with really the constitution. I think that Dean Dillon's reference to part of the preamble which talks about this matter of the Government seeking assistance in performing its part in maintaining and strengthening the unity of Canada, this raises the whole question not really of our methods of procedure but our terms of reference, the scope of our activities.

That particular part of the preamble suggests, I think, that we ought, for instance, to consider courses of action that Ontario might wish to take alone, quite independent of what goes on on the

other front, where obviously we have enormous responsibilities. I think perhaps we ought to sometime strike out, not only try to clarify our thinking about the methods of procedure in the particular area, but also to really carve out the large areas within which we think we have to deliver a certain amount of advice and opinions and information, because the methods, of course, will depend in part on the kind of problem we are tackling.

DR. FORSEY: How much time are we likely to have for this sort of thing, this consideration?

THE CHAIRMAN: As a private matter, how much time are individuals, or ---

DR. FORSEY: When are we going to have this thing dropped on our doorsteps? For example, the Quebec people, how far have they got with their research? Are we going to have time to do some very fundamental work, or are we going to have to do as workmanlike a job as we can within a very limited period.

THE CHAIRMAN: A crash programme, as they describe it.

PROF. McWHINNEY: On this point I think I agree with Mr. Meisel that it would be a pity if we defined our functions negatively to be co-terminus and solely co-terminus with what the Quebec Committee is doing; but the reason

I gave it emphasis is I am satisfied we have a very massive job in theoretical terms and supported by research work to a considerable level of sophistication both in Canadian constitutional history and in comparative constitutionalism.

I have myself, for example, been working upon some of the research Quebec scholars have been making of the Austro-Hungarian Empire, legal constitutional arrangements, and the three German constitutions since 1871. I think they are in error in their interpretation of the foreign affairs powers under those constitutions, which are being used to base this claim to separate foreign affairs powers. To discuss this in a sophisticated way, it seems to me anybody here has to at least go through the same materials and decide what they reveal and what is his position in relation to them.

So that a certain part of our work, it seems to me, is determined by a prior initiative in Quebec, supported by research work of a considerable degree of sophistication which has been going on for about two years now.

But I would agree with Mr. Meisel. Beyond this, of course, we have our affirmative function, but at least we do have a very sizable job just in the one thing, continuing a debate that has already been started.

DR. FORSEY: It is highly sophisticated,

I should think, from what little I have seen of the work of some of the people I think that are concerned; and highly sophistical also, and one of the two jobs we may have to do is to show how sophistical it is.

I am thinking particularly of one gentleman whom I have encountered on several occasions who is perfectly delightful company and very cultivated and expresses himself exceedingly well, but who is, I think, most of the time, as crazy as a March hare on this thing.

PROF. McWHINNEY: I think we are thinking of the same man.

DR. FORSEY: I think we are, and once you can get him to apply his mind to specific ideas, he is all right, but you cannot get him to apply himself most of the time. He is flying up in the stratosphere. It will be an exceedingly plausible performance that he will produce, and it will have all the air of enormously profound and highly scholarly research.

PROF. McWHINNEY: When I was told, for example, that Bavaria had an independent treaty-making power from 1817 to 1919, it is true in terms of the German constitution of 1871, but the thing that is required here is to study the law in action, what actually happened.

Now, by taking several weeks, I have tracked

this down and have what I think is the correct answer. It disagrees with the conclusion of the gentleman you mentioned, but at least two weeks work has to be done.

PROF. LASKIN: We are not going to be the "truth squad" that Judy LaMarsh had, are we?

MR. PERRY: I wonder if we could wrest the subject from the lawyers, for a moment. I had been hoping that the emphasis on the constitution in this discussion only arose from the fact that the lawyers were doing most of the talking.

To my mind the considerations in the change in the focus of economic powers in this country, are much more subtle than in the constitutional area and will need at least just as much attention and research.

PROF. McWHINNEY: That is constitutional.

MR. PERRY: If you are a lawyer it is constitutional, yes.

PROF. McWHINNEY: I think it will be studied scientifically.

MR. PERRY: Surely as an economist you can see it operating without a constitution.

PROF. BRADY: I think, Mr. Chairman, the discussion tends to emphasize the point that Mr. Perry, I think it was, made at the outset: that we will need to break up into something like sub-committees to investigate sectors of this.

I cannot, for example, envisage us meeting here as a group and discussing, as it were, all aspects of this. We may, after we have something presented to us by sub-committees.

THE CHAIRMAN: Right.

PROF. BRADY: As a mode of procedure, I think that is almost inevitable, and I think the sooner we clarify our minds on that fact and the procedure, the better.

MR. GATHERCOLE: Mr. Chairman, would there also be research staff of some kind, or some individuals who could prepare memoranda, getting this work?

PROF. BRADY: I think that should come after you have sub-committees here that look into a matter and they will be able to determine best what research is necessary, what should be done.

THE CHAIRMAN: I was about to suggest that it appears that what we need to do perhaps is to go out and set ourselves up as a new research university without any students, being financed by the federal government and sitting down to work for the next two or three years.

PROF. MEISEL: It seems to me that you have talked about the crash programme, and I may as well use the jargon, not of research, but of conferences, that we are really a body of what, in the frightful jargon, would be called "resource personnel for the

Ontario Government", surely.

THE CHAIRMAN: Right.

PROF. MEISEL: And it seems to me that what we must do is to identify the areas in which the provincial government will require our knowledge, and the kind of knowledge that we can lay our hands on fairly effectively; so that we should really make a list of areas in which we must be prepared within the next -- not only a year or two but probably longer -- in which we must be able to provide the government with help.

Having done that, then we can decide, I think, how we can most effectively go about providing this kind of assistance.

Obviously this whole matter of the Quebec recommendations -- or demands, if you will -- will have to be faced by Ontario, and we have to be ready to perhaps anticipate what is going to happen and to provide the kind of expert assistance that the government may need to deal with it, to generate its own ideas.

But that is only one thing. We have got to identify some of the other problems and also set about preparing courses for dealing with them, although some of them may not crop up until three years from now.

May I just add one thing. I think that a

great many of these problems that we have mentioned today, the B-B Commission is doing a great deal of research which of course will become available and which will probably save us the trouble of doing some of the work that we had already mentioned.

THE CHAIRMAN: If I can sum up thus far in a rather commonplace way, I think for the balance of the day we should probably try to work towards two objectives.

First of all to set out, as you suggested, John, fairly specific areas that we wish to explore or see explored.

Secondly to organize ourselves in a manner to tackle that problem, that is to say, to decide on the arrangements for sub-committees, decide on the manner of research, to give some thought to what material will be provided by other people in accordance with our requirements and so on.

I think we perhaps should have a little break and take some coffee and resume in a few minutes again.

--- Short recess

PROF. LASKIN: Mr. Chairman, I have one suggestion which, after the members of the Committee hear it, they may discard very quickly, but it is this.

Looking around this room, we have three or four lawyers, three or four political scientists and so on, historians, economists, and we have one or two people who are expert in all those fields.

Would it be feasible for the three or four in the particular disciplines to get together and to suggest areas which from their point of view they think ought to be discussed by the Committee as a whole? The suggestions can then be brought forward by each group to the Committee.

The last thing I would want would be to see people in the different disciplines commune with each other. I think the cross-fertilization here is of course an important part of this operation.

THE CHAIRMAN: Yes.

PROF. LASKIN: At least it is a method of getting started, that if we can bring forward problems which, looking at them, our particular discipline, we think ought to be discussed, those problems will then be laid down on the table by the qualified groups and then we can see how we could distribute the work and set up working committees.

THE CHAIRMAN: Are you suggesting we might disperse into those groups now?

PROF. LASKIN: Or we might do this during lunch or after lunch. I mean, somebody may have a very fruitful suggestion, but looking at a way in which we could get off the mark, it struck me

that might be worth thinking about.

THE CHAIRMAN: I think this is a good idea. Talking during the interval to one or two, it seems to me that the sort of projects that we can and should tackle break down into two broad classifications in terms of time, and I think this is a point Dr. Forsey raised this morning.

Some projects are of a more long range type of study which we should do, but, as I mentioned in my preamble, the thing that Mr. Robarts wants to feel is that if tomorrow or next week or (more reasonably) six months hence, he has to stand up to take a position for this province on some question that is imminent, that we have done some work on it at least and provide him with some backing.

So I think we should try and classify some of these problems within sub-groups as matters of fundamental long-run concern but also to try and anticipate the sort of practical immediate questions that are going to come up within a very short space of time and that we should prepare for.

I am quite agreeable to take that suggestion of Professor Laskin's. Have you other views about this proposal?

PROF. FOX: I think that is very fruitful, Mr. Chairman, and perhaps your suggestion could be combined with Mr. Laskin's and the two or three

areas laid out and the groups could then decide on the priority of the areas within their field and indicate that to the entire group when it re-assembles.

THE CHAIRMAN: Now, let me try this out for subdivisions: The legal questions; the economic, shall we say, cultural and educational? Now, are there others?

PROF. McWHINNEY: You might say legal and constitutional so as to bring in political scientists.

THE CHAIRMAN: I am sorry, right. Do you want to have a division of political scientists in addition to the division of lawyers?

PROF. FOX: If I may speak to that as a political scientist, Mr. Chairman, I would suggest that we have excellent authorities in the legal profession here, and they might well work on that constitutional one. Otherwise you will get more than an allocation of a third of your resources, and, speaking for myself, I would be more interested in the last division, the cultural one. I would feel that the people you have in the constitutional committee were more qualified to deal with it anyway.

THE CHAIRMAN: There are seventeen of us here at this moment. There is one missing. We could perhaps have two committees of six and one of

five -- constitutional, economic and cultural-
educational-social so to speak.

PROF. MEISEL: Residual (Laughter)

THE CHAIRMAN: Does that sound reasonable?

PROF. SYMONS: I think that is a very
sensible approach.

THE CHAIRMAN: As to the physical arrangements
at lunch, I think that we are to have one big
table, and therefore I think perhaps we should
get cracking on that and we could continue the
discussion over lunch and start to communicate
what to do about it, and come back together after
lunch here.

Ray, do you suppose we can get the physical
facilities? One group can meet here. Are there
enough other rooms, smallish?

MR. FARRELL: Would this be after lunch?

THE CHAIRMAN: Right now, if possible.

MR. FARRELL: There would be one here and
two more.

THE CHAIRMAN: Yes.

MR. FARRELL: I guess it should be possible
to find it.

MR. GATHERCOLE: Would it facilitate
matters if we carried on with the general line
of discussion you are having, and the arrangements
could be made after lunch. Just a suggestion.

THE CHAIRMAN: The timing is this. We break

up here at twelve-thirty, in time to get up to the Park Plaza at 12.45.

Then when we arrive back here at 2.30, we will be greeted by a photographer who will immortalize us in portrait form, along with Mr. Robarts who will be coming in at that time.

Then we have as long as we wish until six o'clock, and perhaps we should break up about six.

If you wish we can carry on a general discussion here until 12.30 and over lunch try to get the arrangements made for the first part of the afternoon, although I think we probably need a fair bit of time on the sub-committees.

PROF. CREIGHTON: I think we should get started right now, if we can.

DR. FORSEY: Could we clear up now who goes on which, because it may not be entirely clear. Obviously the legal-constitutional you put lawyers on, but what do you do with the jacks-of-all-trades like me?

PROF. FOX: Mr. Chairman, I was going to suggest that the political scientists should have their option anyway between the legal and constitutional and the cultural and educational. Their interests vary no doubt. I do not think constitutional should be regarded as purely a legal discussion.

PROF. McWHINNEY: I would think this is

convenient too. I was making this point earlier. The constitutional areas, you see, tell us such things as whether you have an associate state or whether you have separatism, secession, all those things, which I take it interest the whole eighteen of us here. You cannot define legal quite narrowly as involving a few specific objects to treat, and you can originate a lot of material to come before the Premier. Amending power would be one of them. A lot of the eighteen people here will not be interested in the legal bearing on the big issues there.

PROF. MEISEL: Mr. Chairman, do we need to be as rigid as all this? Why don't we set up three committees to correspond generally to the major interests of the individuals concerned? If, for instance, on the constitutional committee questions arise which are obviously of interest to political scientists where you may like to have their reaction, there is no reason why you cannot ask them to come in and have a look at things, and vice versa.

I think we should not be sort of frozen into our respective areas, since in the end, I suppose as a group we will have to consider all things anyway.

PROF. BRADY: I would agree with Mr. Meisel. We must remember that some of these questions are constitutional as well as cultural.

Take bilingualism. It is constitutional, I suppose, obviously, and it is a very cultural one.

THE CHAIRMAN: It is also economic.

PROF. CREIGHTON: Is there any point setting the three committees rather the same agenda, to see what they can contribute to the common pot? Then if they all say the same thing, that ought to go on, and the others might be marginal if only one suggests it. I mean, they would each approach it from a particular interest, from possibly a particular bias, and I think this is perhaps the better way of doing it.

MR. GATHERCOLE: I think, Mr. Chairman, while it may be desirable to break it down into committees, at the same time I do not think any artificial barriers should be established. If some group has a good suggestion, I think that they ought to make it, even if it is not directly related to their specific field.

THE CHAIRMAN: Thank you very much. Here it is all laid out. How does this appeal, if the constitutional committee consists of Professor Creighton, Dr. Forsey, Professor Laskin. Professor Lederman, Professor McWhinney, Mr. Seguin.

The economic and fiscal: Dean Dillon, Mr. Gathercole, Professor McIvor, Mr. Perry.

The bicultural: Professor Brady, Professor Conway, Professor Fox, Father Matte, Professor

Meisel and President Symons.

MR. SEGUIN: Mr. Chairman, I would rather go to the third one to start with.

THE CHAIRMAN: Okay.

MR. SEGUIN: I will come back to the constitutional later.

PROF. FOX: You read that so fast I didn't get them down.

THE CHAIRMAN: All right. If anyone wishes to object as I go along, please sing out.

Constitutional: Professor Creighton, Dr. Forsey, Professor Laskin, Dean Lederman, Professor McWhinney,

MR. STEVENSON: If Mr. Magone should come ---

THE CHAIRMAN: Mr. Magone is down on this one if he should come.

MR. FARRELL: He won't be back until April.

THE CHAIRMAN: Where is he?

MR. FARRELL: Florida.

THE CHAIRMAN: Perhaps we can get some opinion as to our next meeting.

PROF. MEISEL: Perhaps we can send him an assignment.

THE CHAIRMAN: I am sure it is a good place to work. Economic and Fiscal: Dean Dillon, Mr. Gathercole, Prof. McIvor, Mr. Perry.

Bicultural: Prof. Brady, Prof. Conway, Prof. Fox, Father Matte, Prof. Meisel, President Symons, Mr. Seguin.

I shall go in with the Economic and Fiscal group.

So that comes out seven on the Bicultural, five on the Economic and Fiscal, six on the Constitutional. That isn't too bad. Does anyone have any objections to that arrangement?

PROF. FOX: Looks very good to me.

PROF. McWHINNEY: Are you happy with your assignment? You have a certain conflict of interest,

PROF. BRADY: It doesn't matter. These things flow in.

THE CHAIRMAN: I take it that whereas the dominant emphasis is designated, nobody of course is bound by that in bringing up suggestions.

MR. PERRY: Better have some floating delegates.

PROF. McWHINNEY: I wonder if Mr. Magone is going to be away, if we couldn't attach another political scientist to the first committee.

PROF. BRADY: We are going to discuss these matters after all in plenary session.

DEAN LEDERMAN: As I understand Prof. Laskin's suggestion, it was that we would be committees to get a list of subjects and priorities established and then there would be a re-organization of committees after.

THE CHAIRMAN: Yes. This is just a working party for the day.

PROF. LASKIN: Suggestion groups.

PROF. FOX: I like Professor Creighton's point that each group might think of topics that it would like to see studied, even if this topic would not apply to this group, because I think you might get an interestingly different perspective on this thing.

THE CHAIRMAN: By all means. Ray, what are the prospects for finding a place?

MR. FARRELL: This one room and council chamber and another office is free.

THE CHAIRMAN: I think we might as well leave the larger bicultural group here. The next larger group, the constitutional, might go to the council chamber. Then the third group is where?

MR. FARRELL: There is an inner office in there that is free.

THE CHAIRMAN: Office 2.

MR. FARRELL: Yes.

THE CHAIRMAN: All right, we will take the Economic and Fiscal group into the seat of power, in to the Prime Minister's office No. 2.

Perhaps Ray, you can take the council chamber group; and, Don, would you stay with the Bicultural group. I will be with the Economic and Fiscal group.

We should reconvene here, if you would, about 12.30. Before we separate, is everyone

inclined, after this morning of confinement, to walk to the Park Plaza, or would anyone like a taxi laid on? Thank you.

--- At 11.45 a.m. the Committee divided into sub-committees, as indicated, and did not re-assemble as a Committee until 4.15 p.m.

THE CHAIRMAN: Gentlemen, we are now 4.15. The time is getting along, and we have a lot to do in a short space of time from what I have heard.

I think perhaps we should have a brief report from each of the rapporteurs who are looking after the committees, to give me some information of the scope of our thinking. Then perhaps we can get down to the hard question of practical arrangements, timetables, procedures and methods and so on.

The first committee then is on constitutional matters. I believe Dean Lederman is going to speak to that.

DEAN LEDERMAN: Mr. Chairman, are these reports going to be circulated as well?

PROF. CREIGHTON: Do we have to take notes ourselves of all these things, that is all.

THE CHAIRMAN: No, they will all be part of the record.

DEAN LEDERMAN: Mr. Chairman, we drew up a list of subjects which we thought were important for the Committee to be prepared to deal with and to deal with. So the report I have to give consists

in reading this list of subjects.

1. The Supreme Court as a constitutional and final. court.
2. The amending formula.
3. The current powers, Dominion-Provincial.

I may say we decided to use the old term "Dominion". It is convenient.

4. The Senate.
5. Foreign affairs.

Sub-headings under 5 of foreign affairs:

- (a) Treaty making and implementation
- (b) The role of Dominion and province in international agreements and arrangements

That is the fifth one. The sixth one:

6. Inter-provincial agreements and arrangements.

7. Institutions of Dominion-Provincial relations.

There are a number of sub-headings here:

- (a) Delegation, both administrative and legislative.
- (b) Referential devices
- (c) Conditional grants
- (d) A Dominion-Provincial Secretariat
- (e) Dominion-Provincial conferences other than those of Premiers

8. The constitution and powers of the Dominion-Provincial conferences of

Premiers or Prime Ministers (whichever term you prefer).

9. The spending power
10. Language
11. Education
12. Theories of federalism.

It stops at 12.

THE CHAIRMAN: Thank you very much, Dean Lederman. It would appear to be an extraordinarily productive two hours that you put in.

Moving on then to the Economic and Fiscal, Mr. Harvey Perry will report for this group.

9 MR. PERRY: This list certainly lacks the precision of the previous one.

THE CHAIRMAN: It is economic.

MR. PERRY: Yes, it is much fussier.

The first subject we would describe loosely as a study of economic regionalism. Here we had in mind discriminatory actions within provinces against the products or industries of other provinces; provincial so-called tariff barriers; provincial tax and other institutions leading to economic balkanization; with the general question as to whether there should be more consultation between provinces on economic programmes.

2. The creation of nationally co-ordinated policies, and we are very careful to emphasize there that this can be inter-provincial

policies; they need not be federal policies -- designed to stimulate economic growth through the processes of education, research, transportation, economic development in general.

3. The co-ordination of federal-provincial economic policies where the impact of a federal policy is particularly concentrated in one locality or province.

Here we have in mind area development programmes, tax incentives for depressed areas. The Chairman pointed out that the federal tariff arrangement on automobile parts is of particular interest to Ontario, because 95 per cent or something of production goes on in Ontario. That is the sort of thing we had in mind there.

4. The implications for federal-provincial monetary relations of recommendations of the Porter Commission.

Then in the area of fiscal arrangements, we are somewhat limited because of the inter-departmental studies which are already going on in the Ontario Government. However, we picked two or three fairly broad subjects here which we thought might be appropriate.

The objectives and implications of fiscal arrangements between federal and provincial governments such as:

1. Co-ordination or the lack of it,

in budget policy.

2. The allocation of revenues.

3. Opting-out arrangements.

There is a sixth subject we have. What are the economic implications of a bilingual federal Civil Service? There was some question, mainly on my own part, as to whether this had any economic implications at all, and the rest of the Committee seemed to feel that it might, so the question is there.

That is the economic list.

THE CHAIRMAN: Thank you very much. The third committee on bicultural matters broadly, who is reporting for them?

PROF. BRADY: Mr. Stevenson, our secretary, has the report.

THE CHAIRMAN: Fine.

MR. STEVENSON: This committee basically has a list grouped into four main headings, the first one being Ontario-Quebec relationships.

Ontario's central position in Canada links it historically and economically with Quebec. The fact that Ontario has the largest number of French-Canadians outside of Quebec gives this province an added responsibility in the area of harmonious relationships with its sister province and of leadership in improving French-English relations in Canada. The consequences and

implications of Ontario's relationships with Quebec must be studied by the Committee, particularly as far as the informal working contacts are concerned and discussions on common ground.

The second major area is education.

Education is the obvious first area of priority in studying and making recommendations in the subject area of the Committee. Specific topic areas would include:

(a) French language schools, particularly secondary schools, and universities. It was pointed out that the big gap is between

Grade 10 and 13 where there are no French-speaking classes. Questions between separate and public schools, the financial position of French schools, and the extent of classes in French in English-speaking schools.

(b) The teaching of French in English-speaking schools, both public and separate.

(c) The supply of good teachers of French.

(d) The exchange of students and teachers with Quebec and elsewhere.

(e) The content of text books and the conception of Canada they contain.

(f) The bringing to public attention of what is being done. As an example, courses which are being given in French

in universities other than Ottawa and Sudbury,

The third area was cultural questions,

generally. The improvement of relations generally among Canadians of different races involves a great variety of possible approaches including:

(a) Exchanges of students, teachers, civil servants, private organizations, cultural groups, not only with French Canadian groups and Quebec but with other groups and other parts of Canada.

(b) The study of the role of non-French and British groups in the development of Canadian society, with particular reference to Indians and Eskimos.

(c) The large topic of the role of the state in fostering a Canadian culture, particularly through the use of communications media.

(e) The role on its opposite side, of private cultural groups including sport organizations, in creating harmonious relations. The N.H.L. was brought up.

PROF. BRADY: Well, it was specified as

Ontario.

THE CHAIRMAN: As an old hockey player, I am glad to hear it is in the area of cultural.

MR. STEVENSON: Administration - there are many areas other than education where the

Ontario government, through its own operations, can foster better relations between French and English-speaking Canada. These include:

(a) The use of French in the courts.

This should be studied as to costs, as to the possibility of being introduced gradually or more suddenly.

(b) Translation services within the government.

(c) The hiring of French Canadian civil servants and their position in the hierarchy of the Ontario Civil Service.

(d) The use of French in government correspondence.

(e) The use of French in local government offices in regions where French is widely spoken.

(f) The use of French in the Legislature.

(g) The status of French in Ontario municipalities.

(h) The Quebec Department of Cultural Affairs should be studied as to organization and activities as to relevance for Ontario.

(i) The organization within the Ontario government as it relates to liaison with the federal government and other provinces should be discussed.

Then there are general comments at the end.

The Committee agreed that:

(a) The recommendations of and the submissions to the B-B Commission should be carefully studied as to relevance for Ontario.

(b) The activities of other bodies, such as the Quebec Committee, should be followed closely and contacts made.

THE CHAIRMAN: Thank you very much. Before we go on to our precise programme, let me just raise the question of the last two items that Mr. Stevenson alluded to, which I think we can straighten up fairly readily.

I take it it would be helpful if one can arrange to send to all the members of the Committee some of the submissions that are currently being put forward to the Commission on Biculturalism and Bilingualism. I had, in anticipation of that, called Neil Morrison several times, who has been in these recent hearings, and I have not been able to reach him yet, but I shall arrange to get those and to circulate them to the Committee. Some of them, at least from the press reports, will be particularly interesting on the last two items.

PROF. MEISEL: Mr. Chairman, I think you will have to exercise some censorship here. I don't think anyone here has the time to read all this. There are over 300 briefs, some of which

are abnormally long and some of which are not relevant. I think it would be really a waste to send all this paper.

PROF. BRADY: It would be a selection really.

THE CHAIRMAN: I was thinking of some of those that really appear to be more interesting and thoughtful and relevant.

PROF. McWHINNEY: Where would you put Quebec National groups?

PROF. MEISEL: Some of them are fascinating but some of them are not very relevant to our purposes or to any purpose.

THE CHAIRMAN: Put it this way. By taking advice, I will try and filter out the ones that seem most relevant. Meanwhile anyone who thinks a particular one will be of special relevance should let me know and we can arrange to have them sent out.

10 DR. FORSEY: There would be a certain amount of repetition obviously in Quebec, and somebody will have to weed it out; otherwise you will have every transport agency in the country shipping enormous quantities of paper to every member of the Committee.

PROF. FOX: Mr. Chairman, can I say this, that I have on my own behalf, if not other people's, seen the B-B and the amendments and the publication. I think they are very useful.

PROF. CREIGHTON: B-B is now in print, I understand.

THE CHAIRMAN: Yes, I believe we get them down in the government book store the day before they happen. Again, I shall be guided by your comments. I shall try to select and send out materials from time to time that seem appropriate, and by all means give me a call or drop a note if you think something would be particularly useful.

This question of the Quebec Committee, I was saying in our group, I think, two things. I think the first thing I had better do is make contact with my counterpart in Quebec, and find out exactly how that group is working and what their structure is and what their personnel is and their programme. Then eventually, and presuming that we have some solid front to represent, I think it would be most helpful if we were to arrange a weekend colloquium for this Committee and the Quebec counterpart Committee, and go away some place and have a tete-a-tete for a couple of days. Not only would we, I presume, learn about the work of each other, but it would have the added dividend of getting to know each other in these important discussions.

PROF. McWHINNEY: We may have difficulty on the first point. I asked that last year, if they could give me a copy of their working programme or agenda, and I was told neither

officially nor unofficially. There was a cloak of secrecy clamped on it.

The second matter, which is somewhat different from this, is that they have already indicated that they are prepared to accept submissions from non-Quebecers, from Ontario, and apparently there is one brief already gone in from an English-speaking group in Toronto to the Quebec Commission, and they are going down to give evidence in the next month or so.

PROF. MEISEL: This is not the Parliamentary Committee we are talking about now.

PROF. McWHINNEY: The Parliamentary Committee is receiving the brief from an Ontario group and is going to hear evidence from it.

The Research Committee though is the one that positively refused officially or unofficially to release their agenda.

PROF. BRADY: I think, Mr. Chairman, apropos of that very secret body that you refer to, it would probably be unwise to arrange a meeting with them very soon. I think we should do some cogitating ourselves before we meet them.

PROF. CREIGHTON: They have had about a two year head start.

THE CHAIRMAN: That is why I say we will need a bit of a head start before we go into that fray, but I think we should work towards that.

My understanding is that there is a Committee rather like our own, but rather than advising the Prime Minister it advises a bi-partisan committee of The Quebec Legislature, is that correct?

PROF. McWHINNEY: No, it is different from ours. We, I take it, are advisory, but we can make policy recommendations. The Quebec set-up is that the bi-partisan committee of the Legislature is policy-making and the committee of forty is purely a research group. It is simply their own ambition and elan that has tended to make them policy-makers.

PROF. LASKIN: We could not expect them to release their agenda to us unless the Parliamentary Committee agreed. I mean, they are a research group of the Parliamentary Committee. I was surprised that even unofficially off the record they were unhappy about it.

DR. FORSEY: I think we should try and see what we can do to get in touch with them and get what we can from them and meet with them if they will meet with us. If they simply say "no, we can't" or "we won't", well, I repeat that is that, and there is nothing further we can do; but I think it would be most unfortunate if we gave the impression of not being particularly interested. If we make the advance and are repulsed, all right.

PROF. MEISEL: Except I think a good deal of it depends on what kind of advance we make, it seems

to me. I would like to think carefully before I really could decide whether this is a good idea that we should meet with them at all. One of the functions certainly of the Quebec Committee has been to prepare really the Quebec brief for the negotiations at the Dominion-Provincial conferences; and a good deal of the success, I think, of the Quebec case has resulted from the element of surprise in previous meetings, and obviously they are not going to tell a committee that is going to be advising another province what they are going to spring on them.

So that I think while it would be very useful to meet with them after we have done a good deal of work, I think we should do so on the understanding that we would discuss certain things which we feel are of common interest, and not discuss other things where we know beforehand we are going to get into trouble.

So I think an agenda will have to be worked out that will very carefully skirt around some issues and emphasize others.

DR. FORSEY: Also a good deal depends on the way the thing is done. I should think the more informal approach, sounding them out first of all. If you find that no kind of formal invitation is coming, you could be turned down like a bedspread if they are not making it.

MR. PERRY: Sounds more as if the fear is that the invitation might be expected than turned down.

PROF. LASKIN: We do not want to be accepted too prematurely.

DR. FORSEY: Most definitely not.

PROF. LASKIN: But we can stand rather demonstrably for a meeting as long as we know they are receptive.

DR. FORSEY: We do not want to be put in a position where we appear to be holding out on them, where we appear to be unco-operative, where we appear to be unwilling to discuss.

I think our attitude should rather be that if we have done a certain amount of homework, we are quite prepared to talk about anything they are prepared to talk about, and if they don't want to talk, all right, that is their responsibility.

PROF. CREIGHTON: We might be thrusting our way forward. I mean, it is for them, in their experience to do the invitation. We would be thrusting ourselves forward if we suggested this.

DR. FORSEY: But this is where the informal element comes in. It seems to me our Chairman can do a certain amount of sounding out and see whether they would be at all interested; and if they give him the Bronx cheer at the outset, that is it. If, on the other hand, they seem to

show some signs of being interested in discussing anything with us or exchanging any material with us or anything at all, however little, well, all right.

PROF. LASKIN: May I raise this question, Mr. Chairman, whether this is not something that you would want to clear with Mr. Robarts.

THE CHAIRMAN: Well, I take it that since I am appointed under his authority, this would apply to anything.

PROF. LASKIN: And when we are advisory after all.

THE CHAIRMAN: We are only talking here about our plans.

PROF. MEISEL: While we get our own research on a firm basis, once we meet with them I think we are going a little bit beyond ---

THE CHAIRMAN: Absolutely.

PROF. FOX: I think we ought to throw Dr. Forsey in as a sort of test of water, and if he comes out, then we will know the water is too cold.

PROF. LASKIN: What happens if he sinks twice?

PROF. FOX: He will charm them all.

THE CHAIRMAN: In any event, all this is certainly premature, in view of our presentation, but I take it there is no objection as far as this Committee is concerned to my taking some initiative in trying to find out what does exist in Quebec.

PROF. McWHINNEY: Would it be the Parliamentary group we are dealing with, the bipartisan one, since their research business is much the ---

THE CHAIRMAN: In my position I would not think so, because that is a parliamentary group after all, and I am a civil servant.

MR. STEVENSON: Mr. Chairman, I think the person to contact would be Claude Morin, who is the secretary of the Parliamentary group and a civil servant, and the contact point for both research and for the parliamentary side of things.

THE CHAIRMAN: However, I think I shall try and do it with the discretion you would expect me to follow.

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MR. GATHERCOLE: Mr. Chairman, I think that anything which would enable us to achieve a better understanding of their point of view and, in their terms, that would achieve a better understanding of our thinking, would be helpful.

Now, obviously we are not going to seek them out if they would not be receptive to the idea, but I personally believe that much good can come about by an exchange of points of view and promoting a little more attention to each of our own problems and interests and objectives.

PROF. MEISEL: Mr. Chairman, I am sorry to still talk about this because we must move on, but

as a political scientist I am really horrified with all this discussion. It seems to me that an advisory committee to one personage is in the business of arguing with an advisory committee to another personage. The two personages eventually likely will want to talk to one another, and the ground will already have been covered by a group of people whose status will be highly uncertain in everybody's eyes.

Who do we represent when we argue with them? We may say that we only represent ourselves, but we are going to be, I think, interpreted as speaking for the Government of Ontario.

PROF. LASKIN: Surely that can be cleared in advance.

PROF. MEISEL: I think we can clear it by stating it, but nobody will believe you.

PROF. LASKIN: We don't have to invite the press.

PROF. MEISEL: But I think in their eyes, what will happen, the individuals who advise the Government of Ontario will become identified as particular persons, and I think the kind of collective advice that a government should get, which should be anonymous, will neither be collective nor anonymous.

I think there are implications to this that could well go beyond anything we have raised today,

and we want to be very careful. If we want to have a research seminar with studies of a constitution or language or something like that, fine, but the moment we get into these areas of interpreting the meaning of words in the constitution, I think we are already going beyond the terrain in which we really have any business being.

MR. GATHERCOLE: We would not be taking any executive action or determining any policy or describing necessarily any policy in this matter. We would simply be improving our capacity to advise by achieving, through close discussion, a better understanding of their point of view, and hope it might rub off on them.

PROF. BRADY: Perhaps what we can do is organize a seminar.

DR. FORSEY: I think the point is as John Meisel says, but I wonder whether we want to get into argument, as it were. I wonder if there is anything we could do to find out, for example, what things they think are important, and let them find out what things we think are important. Surely this might conceivably save us both time. If we discover that, for example, as Prof. McWhinney and I have been saying, we think from what we have run across in connection with Quebec opinion that this is something we ought to look at, if we get some kind of indication from them (providing they were willing

to give us an indication of what they were interested in) if they didn't care a hoot about it, it would be useless our engaging someone to do a special study on this thing.

PROF. LASKIN: Unless we thought it was important even though they didn't.

DR. FORSEY: Unless we thought it was important in itself.

PROF. MEISEL: I think what there should be -- LeDevoir and LaPresse can provide good coverage of certainly the Parliamentary Committee. I think we ought to have somebody, probably on your staff, who does a systematic analysis of the Quebec press and keeps track of the briefs that are presented. For best we should get some briefs, copies of them. Our own library at the University is trying to get this, and I think we should be as informed as we can about it.

I really don't see how they can tell us. They are probably under an oath of secrecy, I should think, or ought to be. I think this is not our business, to run around the country engaging in conversations and dialogues. I think our business is to find out what is going on without ever appearing in the public.

PROF. LASKIN: Who do you think we are, the B-B Commission?

PROF. MEISEL: No, they have done it. They

are running around the country.

PROF. LASKIN: That is what I say.

PROF. MEISEL: And we are not.

PROF. McWHINNEY: Even if the meeting does not occur, we are not completely in the dark. The University of Toronto in the fall brought down a half dozen of the members of this Quebec Research group. We brought them down in the university capacities, not the others. They expressed their views somewhat uninhibitedly, and they will be published in about a couple of months. So we have their views, significant young people's views, and they had our views so far as various of us continue writing. Everybody understands their private views, but I assume it is difficult to put on two hats, one as a member of this Committee and one as a professor. There is a certain flow of information but it is not a substitute for the sort of meeting our President suggested.

PROF. BRADY: Mr. Chairman, I think when I mentioned, and John Meisel introduced the word "seminar", I was quite serious that perhaps the contact might better be made on some basis, not the members of one committee, as it were, an advisory committee, directly meeting another, assuming that they would meet with us as a committee; but to organize some sort of discussion in which all of us could participate and brush over some of the

problems and discover what they were emphasizing as important. I think probably most of us know what these problems are.

PROF. CREIGHTON: I think we do.

PROF. BRADY: But if there is any meeting it might be better done in that way. I had some reservations about the meeting idea too, actually, but I do not think it need have any ill-implications if it is approached properly.

Possibly one of the ways of approaching would be this rather informal sort of basis in which we meet ~~these~~ people in a type of seminar and discuss some of the problems that differ between us.

On the whole, the more I think about John Meisel's objections, the more I think he is right.

THE CHAIRMAN: Gentlemen, I do not want to delay on this. I think I accept the point of view that this problem is perhaps more complicated than it appears. In any event I do not think we are proposing to meet next week or the week after, but I may take this as notice and we will have an opportunity, I am sure, to decide on our approach to this, because we are not really going to do it unless we have done a good deal more work.

I think we ought, perhaps, to address ourselves to what we are going to do to prepare ourselves to meet with the Quebec people, if we do meet with them, and decide what form this programme is to

take. It really involves the question of who is going to do the research, prepare the working papers, and how they come back to us, under what subdivisions -- presumably sub-committees or sub-committees for economic, constitution, etc., or cross-groups, and the priorities to be attached to these matters and so on.

PROF. FOX: May I ask on that, whether each of the rapporteurs was reporting the findings on the basis of the priorities that they thought should be assigned to these tasks? Was each group listing the areas in order of their opinion on their priority?

PROF. CREIGHTON: We couldn't say so on number one.

DEAN LEDERMAN: I don't think the order of my report was intended to be an order of priority.

PROF. FOX: I think ours was, more or less. That was our recommendation. I just wondered about the others.

MR. PERRY: I am afraid ours wasn't either. We could get some sort of order.

PROF. LASKIN: I wonder, now that we have these subjects, topics, let us say, if it would not be appropriate to bring them together in some fashion, because there are a number of them that overlap. I had hoped that they would, expected that they would. And doing that, then establish

an order of priorities after we have brought these things into some sort of inter-relation.

12 THE CHAIRMAN: How are you proposing that that be done in practical terms, in terms of timing?

PROF. LASKIN: Somebody would have to lavish a little attention on this, but listening to the lists there are things that run across the suggestions of the three committees. They can be pulled together. I do not think that any of us is particularly wedded to the language in which we have expressed the subjects. We are concerned with the substance of what we have in mind. Some of it has not been spelled out. There is as much in some cases as in others, but if we could have a composite list ---

THE CHAIRMAN: Well, do I take it that what follows from this then is that where this Committee of the whole might normally expect to meet, let us say, once a month on a regular basis, perhaps a regular date, that what we must do now is to have, I presume, myself and Mr. Farrell and Mr. Stevenson put together a programme from these suggestions and send it out to the members of the Committee quickly have a couple of weeks or so to think about this further in your own minds, to clarify it further, to see where it leads: and then and only then can we reconvene and establish the first programme that we are going to initiate.

PROF. LASKIN: If you and Mr. Farrell and Mr. Stevenson do this, we might be able, in the weeks before we meet again, to send you back any views that we may have on how these things might be set up. It might save a little time. That might give you then a little time to suggest a further programme on these things over some period of time or list the priorities, but we would be then better prepared to address ourselves to the method of working on these things.

PROF. MEISEL: I don't know whether -- I am now talking away without having thought this through -- I may be making a very stupid suggestion, but I will make it anyway. Would there be some point in setting up a smallish -- six or eight members perhaps -- research committee which would cut across the three other committees, and which would really tackle in a pretty sort of workmanlike fashion, all these research implications and the research programme.

It may be too soon. This may be the wrong way of going about it but it seems to me that a group of twenty people is too big for this job, and that somewhere along the line we have got really to get a smaller committee that thinks of this research programme in a very concrete way.

DEAN DILLON: I would support that. I think that if we are to get started, we would be far

better off next time we meet, if we can consider some kind of specific proposal. It may be it would be changed, but I think this is a smart idea.

PROF. CREIGHTON: It seems our history group have proved the value of breaking this large body up into these various committees, and it might very well be that this idea would work far better.

PROF. FOX: I like that, John. I wonder if we could take the three sub-committees that we set up today and draw a couple of people from each of those and work with you in outlining a proposed pattern of research put some thought into availability of resources, people to do the research and formulation of the topics pretty precisely and so on.

PROF. CREIGHTON: Proposed formulation of topics, a reconciliation of these different suggestions, and putting them into different categories and so on.

PROF. FOX: That is right, and then report that to a full committee and have their judgment on it.

THE CHAIRMAN: I gather that this suggestion seems to be generally acceptable then. What do you suggest, Paul, about the sort of people involved?

PROF. FOX: I think you should have someone from each of the three committees we have today,

because it provides liaison with the Committee of what went on in these committees. I suggest six. That may be too many.

PROF. MEISEL: I think what we ought to do, not to be too rigid about this, I think this is something you ought to decide when you have had a chance to look over the minutes of today's session and pick a committee which will incorporate the members of the three committees and also the different kinds of disciplines, experiences, that you can must here. You may, say, put eight people on if you have to.

PROF. LASKIN: You take this in two stages. You are going to have a record, you are going to have to ponder a little more over what we have done today. If you and Mr. Farrell and Mr. Stevenson have a preliminary look at it, why don't we simply leave it in your hands after that to decide that if you do want to convene a small committee, go ahead and do so. I think we would all agree with that, and if they can then produce something which we can have before we meet again -- and I take it there will be some arrangements made for our meeting now, for the future meetings -- then we will have something in our hands to proceed accordingly.

THE CHAIRMAN: I certainly welcome the
idea of this reporting sub-committee. I would

be very happy to strike that.

PROF. McWHINNEY: It would decide what, priority among the subjects and the suggestions by disciplinary work? Isn't that relatively self-evident? I don't feel there was much clash as between the subjects as I followed them on the various committees. I wonder whether the committees themselves are not really the better ones to decide priority in their subjects, that is to say, after you and Mr. Farrell and Mr. Stevenson have reported.

MR. GATHERCOLE: Mr. Chairman, where we are trying to anticipate the help that the Government of Ontario needs, after some point you should be giving Mr. Robarts that list of topics, and then the Attorney-General and other Ministers might have ideas about where they expect to want help.

PROF. McWHINNEY: I have the feeling that is the missing element, Mr. Chairman. That is what we have done really to require preliminary co-ordination, but there is the political decision of high policy, what should be emphasized, and this really should be cleared.

MR. GATHERCOLE: I am in favour of the small committee. I think that is a good idea. I think also these other consultations should occur.

THE CHAIRMAN: Perhaps the small committee might even meet with Mr. Robarts and say: "Here is a large list in general according to the terms

of reference. What teeth do you want put into the terms of reference?"

MR. GATHERCOLE: I believe, Mr. Chairman, in the cross-fertilization of all the subject material that has been suggested and the other ideas that will come up. In my own reasoning, this is where it is desirable to stop right now or where at least, until we meet again, the sub-committee will continue in their present form to round out and embellish that to which they have been giving consideration.

PROF. McWHINNEY: I was going to speak for myself and my own committee, but I felt we were getting very close to consensus and the next step really was for somebody to say: "Well, many thanks. I positively would like this done first", or else: "You know, I have no feelings myself. What do you consider important? You go ahead". Thirdly the statement: "These are the facilities we will give you or will have available to you which you will decide upon in terms of using".

I do feel that our Committee were very near that stage.

PROF. MEISEL: Mr. Chairman, I do not feel for the moment that the existing Committee should cease their work at all. This was really additional.

PROF. LASKIN: Let us be practical about

this. We are not going to be meeting on a daily basis. Each of us is going back to an awful lot of work that each of us has.

Why don't we take advantage at least of our Chairman and two gentlemen here who are acting as secretaries. let them pull a few things together let us get the record and have a look at it then start considering what you want to do about your planning committee, if you want to call it that. This may be done in the next several weeks.

We have not by any means exhausted the topics that we think we could suggest. I mean, we broke off simply because we felt we would miss our tea.

THE CHAIRMAN: Which turned out to be coffee.

PROF. MEISEL: We thought the same thing a little earlier than you.

THE CHAIRMAN: I, of course, am conscious of the limits of time that can be expected of the members of this Committee. You have all served on these, probably more than I have. I have just come through over a year on the Attorney General's Committee on Securities legislation, which ended up meeting two or three times a week, and that is very trying.

PROF. McWHINNEY: I would like to support Prof. Laskin's point. I think the stage that is

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really required now is for you three full time people now to go and see what sense you can make of this, then I would be happy to leave it to the Chairman to put together whatever small group he wants to assist him and take whatever steps he needs to take in selling the Premier then come back, send the material to us, and then convene us again for our final comments.

DR. FORSEY: I think it would have to be a small group, somebody from each of the sub-committees.

THE CHAIRMAN: Yes.

DR. FORSEY: Who can perhaps explain. If it were said: "Why have you got that? That doesn't seem of much importance." and Prof. McWhinney were there or Prof. Laskin from our sub-committee, they would say: "The reason we think it important was such and such", and this might be plainer to the Premier which otherwise he wouldn't dream of, and he sees your point.

So perhaps it would be wise to do something on that fairly soon.

In the recess I think it may not be a bad idea if some of us turn over in our minds the possible naming of people to do some special jobs so that when we come back again we will have some suggestions, possibly.

THE CHAIRMAN: I wonder if we could come to

that now, because I do not want to lose too much time here, and come back whenever we reconvene and then start about the practical job of finding personnel.

Perhaps we should consider in a general way to what extent members of this Committee, first of all, would be free to work. secondly the extent to which members of this Committee are aware of colleagues or even advanced graduate students who would be prepared to work. thirdly to get something of the resources that the staff of the Ontario Government itself has internally to tackle some of these questions for us.

PROF. CREIGHTON: It must be obvious to everybody that this is going to be extremely difficult to get anybody to do any research, because they are all busy already.

THE CHAIRMAN: That is what is worrying me.

PROF. CREIGHTON: And this is really the major obstacle, I should think. I don't know how we are going to overcome it, because between other Boards and other Commissions and other historical and constitution and economic projects and the rest of it, people's time is just taken up.

As everybody knows that has anything to do with the university, these people are just graduating and they get jobs.

THE CHAIRMAN: Right.

PROF. CREIGHTON: And this is going to go on in exactly that way. Now, this is just an observation that everybody is aware of.

PROF. LASKIN: We may very well, Mr. Chairman, have to look at our resources in terms of priorities, of course, and we would have to make sure that the amount of time we provide is going to be on work of which we would all be proud and stand by, and not to do a hasty and hurried job simply because of the pressures on getting something else.

So I think priorities become very important, and it may be we may have to juggle this according to the resources that are available.

MR. GATHERCOLE: Mr. Chairman, isn't the best arrangement here, that after you have done some preliminary work on this and perhaps the rapporteurs for the three sub-committees have clarified their thinking and their interpretation of the other members of the group, that you could contact some of the people here that you know might be able to devote some time to it.

THE CHAIRMAN: Or provide some one.

MR. GATHERCOLE: Yes, and to ascertain from them whether they would know of someone who could undertake the work. I think this is a matter for yourself to consider and to approach different individuals or to see if there is some special phase of it that they could undertake as falling within

their particular specialty.

As Dr. Creighton has said, all of us are very busy and are unlikely to be able to undertake much, but there might be in some particular instances a little bit of additional work that some might be able to do or know someone who might be able to make a contribution. Now, I think this lies in your hands.

THE CHAIRMAN: The structure, I would say, at first glance, would be working papers on studies commissioned, supervised at first hand by a small sub-committee of this committee who are concerned and familiar with the area: then that those studies, through the guiding hand of the sub-committee, would eventually come before us here for our consideration and further discussion.

Now, this raises one point which I would like your advice about. I have not really spoken to Mr. Robarts about this particular point. I said at the beginning that this Committee long range is really equipped to do two things: to provide advice to the Prime Minister and also to undertake research.

Now, if we are asking for working papers or studies to be done by academics or other people, we are all familiar with the facts here. Are these particular studies, regardless of what we may make of them and what advice we offer from them,

are these particular studies to be private for the members of this Committee, or are they to be published and become part of the public domain as far as the authors are concerned?

PROF. FOX: It must be *private* provided. I do not think they could be anything else.

PROF. McWHINNEY: But that materially affects, of course, the availability of people of first class calibre to do this.

For example, some of my best work is locked up, my younger work, in the files of the Secretary-General of the United Nations, and one does not do this very often. Unpublished stuff is no good to you.

THE CHAIRMAN: There is a point, and the stuff is hard to get.

PROF. LASKIN: It depends on the Premier, doesn't it? I mean, we are an advisory committee to him. If he chooses to publish our work, we are tendering it to him and I think it is really his decision.

MR. GATHERCOLE: I can think of some things we might prepare that I think should not be released, not as a document representing this Committee.

Now, if there was a manuscript which was prepared as representing the views of that individual, that would be his prerogative, but I think we have

to have some little consolidation of view as an advisory committee as to what would be released.

PROF. BRADY: I do not think, Mr. Chairman, there is any flat answer actually to this question. There are some of our reports that the Prime Minister might wish to see published.

MR. GATHERCOLE: Oh, yes.

PROF. BRADY: In other words, they are public. Others perhaps it wouldn't be advisable. I think that is a matter that could be settled when it comes later in the stage.

While I am talking, I would agree with my friend Prof. Laskin in his remarks, that the question of chasing people to do research is going to be very difficult, as Prof. Creighton said, because we all know the reasons. There are a number of Royal Commissions and the B-B has a very large group of people employed.

It is going to be difficult, but that again we can decide when first we have scrutinized a little more closely what we think as a Committee to be important questions. We may decide, when we have so judged them to be important, we can then decide how to proceed to get studies done. Some of us may be prepared to do some work and others may have to get aid outside or within the service, if there are people who would do it within the service.

DR. FORSEY: It seems to me that in some instances a piece of work that was done for us, you might say, should not be made against the imprimatur of the Committee or the Ontario Government, and others might very well be told "Nihil abstat . You can go ahead and publish it on your own as a piece of work."

Of course, on the other hand we might want to keep control of the thing in your hands, but there might be cases where we did not want to publish it as an expression of our view but if you want to publish as Mr. Jehosophat Jones such and such, go ahead and do it.

PROF. MEISEL: I think one of the things we have to do fairly soon is to work out some kind of time scale in which we operate. I personally think that this Committee is going to have work to do, I would imagine, for the next ten years, and I would rather suspect beyond.

Our problem is surely to determine what the Government of Ontario will need immediately. There are certain things on which work has got to be done at once.

We know that the B-B Commission is going to make a report and will also release a great many scholars from various occupations, and in about five years the problem will be less difficult.

14 I think we ought to decide, when you have gone over all these ideas which have come up today, which have to be tackled immediately because Mr. Robarts really needs to know and needs to get advanced, which ones we want to dovetail with the B-B Commission report.

 So I think you may very well say: "This is an important problem but there is no point tackling it now. Let us wait to see what the B-B Commission has produced on it and then we will see whether we ought to move further with it in three years from now, four years from now".

MR. PERRY: The only thing is in some areas there is going to be a Commission report earlier, B-B Commission.

PROF. MEISEL: This is fine to look at this. That is hopefully when?

MR. PERRY: Well, I think earlier than five years.

DR. FORSEY: There may well be some things the B-B Commission is going to report where we had better get the jump on them or we will find ourselves faced with some of these drastic operations that these gentlemen are talking about in preparation for this.

PROF. McWHINNEY: I take a very pessimistic view of what I know the B-B Committee are doing in that area covered by the sub-committee

I sat on. I have a pessimistic view of what the B-B Committee is doing in matters we have covered. I take a pessimistic view of its report focusing on this particular problem.

As I see it, you can commission studies in aid of policy discussions. For example, assuming you find them (and I think you can) you can find people to study in the area of, say, Supreme Court, Senate, Foreign Affairs. You can authorize them to do an objective study and you can say: "We will pay you so much and we will publish it". For example, we have a collection of manuscripts on the Bank of Canada at the University Press Library. It covers the whole spectrum. We have six views from Quebec that present the full gamut of the Quebec proposals -- outrageously by the viewpoint of some who have seen them, but they cover it -- and corresponding English-speaking views.

I take it there is no special problem in this thing going forward. Stuff like this has some sponsor by this time.

Where it does become difficult is the policy recommendation they set upon it, but I don't see how in any given areas we can make policy recommendations that can stand to command any public support without some studies of this sort done.

So I think you could easily make a differentiation between scholarly work in support of

policy recommendations and policy recommendations themselves. The latter, I take it, we do not publish. We simply give them to the Premier, don't we?

Would you have funds to subsidize foremost scholars to do objective studies that they could publish? Would there be difficulty in clearing this with the Premier?

THE CHAIRMAN: There is certainly no difficulty about having the funds to commission research that we want to have done.

The only reason I raised this question -- and perhaps I am over-stating what I believe to be the state of mind of a number of my colleagues or my contemporaries -- that since the manpower conditions are difficult, and since, as you have put it, and as I understand it, quite bluntly, that there is not quite the same kudos attached to private writings as there is to public writing, I question how far we have to go in meeting this.

PROF. McWHINNEY: May I say that you can get hold of young assistant professors, and there are many professors available, who could do the work, but if they are going to be locked up -- a number of us have worked for the U.N. There was a restricted right that the work could not be published, and a lot of the best work was never published -- a straight rule.

Now, anybody who does then accept assignments of this sort, unless they violate them dishonestly by writing a book on the same subject under another name, this is one of the dilemmas.

I think if you recruit pretty young people who are not members of the Committee, you have got to give them the encouragement of publication too.

DR. FORSEY: I think we may have to emphasize to ourselves and to anybody we commission that this is perhaps a very serious matter indeed that nothing less than the continued existence of the Canadian nation may depend on it. I don't think this is putting it too strongly.

I think the B-B Commission, whatever else may be said of its interim report, has put its finger on something very essential and very true, when it says there is a very serious situation.

Sometimes I get very pessimistic about it, and wonder whether, even with all hands to the pumps, there is any hope of saving it.

I think we may have to say to ourselves and some other people too: Look, this is not just an academic exercise. You are giving some advice to the provincial government. This may make the difference between this country holding together, and a lot of us being driven into exile because it is made an intolerable place for reasonable people to live.

PROF. McIVOR: I agree with Dr. Forsey if we are to start out approaching young people to do research studies for us, we are really in no position to give them a blanket guarantee that we are going to publish the result of what they turn out, because in anything of this kind there are going to be bad and good studies, and we sometimes might not wish to associate ourselves at all with some of these efforts.

On the other point, when it is through, we will undoubtedly get to some system of priorities of what are our short run requirements and longer run studies but the fact of the matter is that a good part of the subject matter with which we are concerned is the subject of Royal Commission inquiry at the present time, whether it is in the B-B or Royal Commission on Taxation, and so on, and I suspect we are going to find in the end there is a great deal of our work that is of short run, pressing priority, and we simply can't afford to sit back, as Dr. Forsey has said, until these various Commissions report and then decide to ask ourselves what we are going to do about it and organize research programmes and so on.

So I think the prospects of minimizing this manpower problem in the short run are not very good. We are simply going to have to make the best of the situation and not be able to depend

on the fact that two or three or four years from now there may be people available that I don't think we can afford to do that.

MR. GATHERCOLE: Mr. Chairman, may I make this observation. I do certainly concur in the fact that there is a very limited number of individuals qualified to undertake work of this kind; but I don't know and I wonder whether the problem is as acute for obtaining individuals to do a report on a subject which might be of value to this Advisory Committee which would be treated as a confidential report today but without any restraint on the individual to use the material in another way so long as he published it under his own name. I see nothing wrong with that at all.

Professor Kruger of Waterloo University, along with a couple of colleagues, prepared a report on regional development for the Ontario Economic Council, and this turned out to be a report that was quite critical of the practices of the Government of Ontario, and in some regard I thought it was overly critical, but this did not inhibit Professor Kruger from making a speech on the very same subject, in fact at a conference organized by the Government of Ontario on regionals.

So Professor McWhinney, I see nothing untoward about a person who would be engaged by the

Committee or some research work for it, submitting a report when they finish to this Committee, and yet any material he might be fully free to use in a published way, as an expression of his own thinking.

PROF. McWHINNEY: That would solve a good deal of the problems anticipated. The U.N. rule is absolute, but this is, in my view, a very intelligent ruling, and I think it would overcome a lot of the difficulties I mentioned. I think really it would make it a very much more attractive proposition to young scholars to be sold on.

MR. GATHERCOLE: I think you have to accept it one way or the other that these things are going to see the light of day.

THE CHAIRMAN: Perhaps I was not sufficiently clear in making the point I want to introduce. I never thought for a moment that this Committee or that the Government or anyone else was going to go into the publishing business with these studies or reproduce them as reports or public documents.

I was really working on this question that you raised, George, as to would the work that people have done. in one form for this Committee, become the basis of a published document or an article in their own name in another context.

PROF. McWHINNEY: If there is no objection to that, as I say, it would tremendously simplify

the task of recruiting.

MR. GATHERCOLE: I think you have to accept it.

DR. FORSEY: As long as they don't try to involve this Committee in any responsibility. I mean, if the chap produced the thing for the Committee -- dynamite, let us say -- and it is over his own signature, and he just says, "This is my book", that is fine but if he says: "This is what I have recommended to the Ontario Government ---"

THE CHAIRMAN: Exactly, -- "which they refused to listen to".

DEAN LEDERMAN: Mr. Chairman, the situation is that you cannot take public positions on matters this Committee is going to deal with. Even in our classroom work we have to do this.

PROF. McWHINNEY: For example, the B-B Commissioner, I have a brief into it, and the newspapers have already, getting notice of the hearings, written asking for copies. I raised this with Ian. He told me this was all hearings. I take it this was an official ruling.

THE CHAIRMAN: Let me say I am pretty sure the Prime Minister had no expectation that by becoming members of this Advisory Committee, that any member of the Committee would cease to be in a position where he could write, speak, teach or

publish his own views.

PROF. MEISEL: I wonder if we haven't got off the rails slightly. For a moment in the last half hour I wondered whether I was sitting at a meeting of the Social Science Research Council or this Committee. Obviously we have to do some research. We are aware of the fact that if we are going to give some advice we have to know more but surely the focus of everything that we do has got to be what advice does the Government of Ontario need on specific problems which we consider to be important or which the province of Ontario or the government thinks is important? Our priorities, I think, are going to be imposed around it.

The Ontario Government will have to participate in certain negotiations, and will have to have certain kinds of studies before it can do so; and we have got to find these studies, even if we have to see somebody a dozen times and say it to them. I am exaggerating slightly but, you know, there are some things that the Government of Ontario has got to have, and it has got to take measures to get this kind of analysis. These are the sort of crisis areas.

Then also, if we are going to try to really do something about the general programme that we are outlining in our three Committees today,

we are going to take the long term view where we say: "Here is a point about which we ought to know more but we cannot afford to take three years to find out".

MR. GATHERCOLE: Prof. Meisel, what you say may be perfectly true in some cases. In some cases it will assign its own staff, and there may be some specific assignments that it would give to this Committee; but I personally think, Mr. Chairman, and I may be quite wrong on it, but as I read the situation here the government is looking for us to think about some of the problems and the answers which have not even occurred to it. In other words we have to anticipate the reaction that it would take to some developments that are looking in the future and which it has not the time to think through, and to provide what the questions are and what the answers are. That seems to me to be one of the major functions of this Committee to perform.

MR. FORSEY: This is why I said that I think that when the Chairman and the two secretaries meet with the Premier, if they do, or whoever you meet, there should be some people from the sub-committees here today so that they could say: "Now, we think this is rather important for the following reasons"; because it may quite well not have occurred to the Premier that this particular

thing was important. In two minutes you may convince him this is one of the first things that will hit him in the face at the next conference.

On the other hand he may say, he obviously will finally have to decide and say: "I am sorry, I am not a bit convinced by that. This is what I regard as important. This is what you should do first"; but he hears first the reasons why people here think that this particular thing is important.

PROF. LASKIN: Isn't the purpose of meeting with the Premier and letting him look at what we have done, to see whether he has anything to suggest for immediate consideration?

Now, if he doesn't I take it that we are free to go ahead, because that is really what he is saying: "Go ahead and generate ideas".

PROF. McWHINNEY: "Make your own priorities".

PROF. LASKIN : "Make your own priorities", but we owe him the courtesy and obligation of giving him an opportunity to see what we have done because what we have suggested may coincide with things that are on his agenda and which we know nothing about.

So let us do that first, and if he has nothing to suggest immediately, he will tell the Chairman, and then we will simply go on our own merry way.

DR. FORSEY: He may, of course, have thought of something that has not occurred to anybody here which is terribly important and should go at the top of the list.

PROF. LASKIN: Of course. I think that is the first question to ask when you meet: Has the Prime Minister anything to refer to this Committee.

THE CHAIRMAN: I will reiterate my answer to that. As of yesterday, no, which I think was not only a practical answer but also an expression of what he has said: "Go ahead and bring up these things".

PROF. LASKIN: Of course.

PROF. McWHINNEY: I am not quite pessimistic either. I can only speak for the Committee I was sitting on, but I am satisfied on two possible basis. One, if suddenly the thing becomes urgent and some crash research expert of ability is needed, or (2) we have a little more time, I would think a little more compact type of study could be done on any one of these twelve or thirteen subjects we suggested within a year: and a respectable crash piece of research, if it came up suddenly, within a very much less time.

By "respectable" I take as a basis of comparison, Mr. Favreau's research, which I think was just dreadful, in that gray paper you circulated

to us.

I don't know about my colleagues. Mr. Meisel might be a little more pessimistic about needing three years. I would think, for example, if you had a couple of research assistants and somebody directing it, on almost all of these constitutional subjects the thing would have pretty respectable study in depth done within a year without much difficulty, and a good working paper within a month or two if it had to be done. I mean, I know I could do it myself and I know Laskin could and I am sure Dr. Forsey could, and the other members on our Committee. Perhaps this is different on economic matters and cultural matters. It may be harder to get the source material.

PROF. MEISEL: It is different. You couldn't do this in some of these areas. There are not the people available, and even if they were, you couldn't do it in the time.

DR. FORSEY: I am convinced if we had to do what there was before our Committee, if we had to do a crash programme, I am convinced the people on that committee could do a pretty respectable job themselves under pressure.

I do not say it would be a real earth-shaking production which would be the last word on everything, but it would be a pretty workmanlike, respectable job, which would give the Premier the

material he needed for dealing with the situation as it came up.

I am not taking any credit to myself. I am thinking of the other people on the committee. I might be able to supply a footnote here or there or a query.

PROF. McWHINNEY: This is the big difference between this Committee and the B-B Committee. The B-B Committee farm it out. This is why I think, with a good research programme, you have got, if necessary, to be able to do the stuff yourself.

I have the feeling that our Committee, every member there today, could do a respectable job either on a one-month basis or a twelve-month basis if the thing had to be done on that basis.

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PROF. LASKIN: "Mirror, mirror on the wall--"

THE CHAIRMAN: I emphasize again, the Prime Minister has made it quite clear whether we do it ourselves or commission it, the funds are here in adequate measure to do this job.

I am already beginning to acquire some of the civil servant manner of speech.

MR. GATHERCOLE: Lots of money, that is what that means.

THE CHAIRMAN: Let us try and be precise for the closing minutes of the meeting.

I propose that upon putting together the lists with the two secretaries, to convene shortly

a sub-committee of the group; meanwhile, to go over the results of the secretaries' and my meeting then to circulate this to all of you for further comment then to suggest to Mr. Robarts that not only he meet with me but with the sub-committee for the reasons Dr. Forsey suggested, to establish two lists, so to speak. First of all, those matters of immediate attention and priority and interest; secondly the matters of longer run concern which we will pursue and we can pursue as our time and resources are available.

Then thirdly, presumably we would like to come back together in plenary session, at which time we can establish clearly who it is is going to do the work or assign the people who are going to do the work, or whether we are going to do it ourselves, under the supervision of sub-committees which we can devise.

I think you would probably like, if possible, to establish a regular meeting time -- a certain day of the third week of the month or something. Does that seem fitting? How much time do you think we need before we come back together in plenary, so that when we do come back in plenary we are really set to roll.

PROF. CREIGHTON: A month from now?

MR. GATHERCOLE: Yes.

THE CHAIRMAN: Anyone feel that is pushing

it too soon?

PROF. LASKIN: Four weeks from today.

THE CHAIRMAN: Let us look at the timetable.

--- There followed a discussion of the date of the next meeting, which was eventually settled as Friday, April 30th next.

THE CHAIRMAN: Are there any other matters of business, gentlemen, that you wish to add before we adjourn? Any material you would like me to get for you in the next little while?

PROF. CREIGHTON: A whole spate of books being published, of course.

THE CHAIRMAN: This is a point. I know most of you are getting these things anyway and I don't want to duplicate, but we certainly can get you anything you would like.

PROF. MEISEL: There is one thing I have noticed. There are lots of speeches being made by provincial Cabinet Ministers that touch on these matters. You see little guarded references in the press. It might be very useful if you could get together on a routine basis and collect these things and send them out.

THE CHAIRMAN: Don, can you make a note of that? It is a very good point. We all buy the books and see articles, but Prof. Meisel has raised a good point.

PROF. MEISEL: Does the government have a clipping service?

THE CHAIRMAN: We have a very good information service in the library in our department, and I think we had better get them geared to this.

MR. FARRELL: Speeches it is, basically but we can get copies of them that are particularly relevant.

PROF. CREIGHTON: What about statements from other provinces?

THE CHAIRMAN: That is in the same category.

PROF. MEISEL: That is what I really meant.

THE CHAIRMAN: We hire some summer students in the Department of Economics and Development, and this summer I intend to put two of the people to work on this sort of thing.

I think we are in the process of adjourning in disarray, and Mr. Robarts will be looking for us at six-thirty at the Westbury Hotel.

--- The meeting adjourned at 5.45 p.m. until 10.00 a.m. on Friday, April 30th, 1965.





ONTARIO ADVISORY COMMITTEE ON CONFEDERATION

M E E T I N G

held at

Parliament Buildings
Toronto

on

FRIDAY APRIL 30 1965

VERBATIM REPORT OF PROCEEDINGS

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2 ONTARIO ADVISORY COMMITTEE ON CONFEDERATION

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4 --- Meeting held at Queen's Park, Toronto, Ontario,
5 Room 263, on Friday, April 30th, 1965.

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9 PRESENT:

10

11 Professor Ian Macdonald, Chief Economist,
12 Department of Economics & Development
(In the chair)

13 Professor Alexander Brady,
14 Department of Political Economy,
15 University of Toronto

16 Professor John Conway, Department of Humanities,
17 York University

18 Professor Donald Creighton, B.A., M.A.,
19 Department of History, University of Toronto

20 Dean Richard Dillon, Faculty of Engineering,
21 University of Western Ontario

22 Dr. Eugene Forsey

23 Professor Paul W. Fox, M.A., Ph.D.,
24 Professor of Political Science, Department of
25 Political Economy, University of Toronto

26 Mr. George Gathercole, 1st Vice-Chairman,
27 Hydro-Electric Power Commission of Ontario

28 Professor Bora Laskin, Q.C., Faculty of Law,
29 University of Toronto

30 Dean W.R. Lederman, B.A., LL.B., Faculty of Law,
31 Queen's University, Kingston

32 The Rev. Dr. Lucien Matte, President,
33 University of Sudbury College

34 C.R. Magone, Esq. Q.C.

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Professor R.C. McIvor, Department of Economics,
McMaster University

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Professor E. McWhinney, LL.M., S.J.D.,
Faculty of Law, University of Toronto

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Mr. J. Harvey Perry

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Professor T.H.B. Symons,
President and Vice-Chancellor,
Trent University

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Mr. D. Stevenson) Co-Secretaries
Mr. R. Farrell)

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2 --- At 10.00 A.M.
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4 THE CHAIRMAN: Gentlemen, I think we might
5 begin. We are just missing Harvey Perry.
6 Professor Meisel is in Ottawa this week on work
7 connected with the other Commission.

8 I would first like to welcome Mr. Magone
9 who was away at our first meeting. I do not know
10 if you know everyone, sir, but I expect you will
11 in short order.

12 One of the interesting things about this
13 Committee is that we could perhaps sit down and
14 hear interesting reports of the recent activities
15 of some members rather than going to our agenda.
16 I really don't know whether to begin by asking
17 Professor Laskin for a discourse on the status
18 of professional football in Canada and how this
19 is likely to affect beneficially the Montreal
20 Alouettes and the Toronto Argonauts which would
21 have some relevance to our committee, or whether
22 to perhaps ask Professor McWhinney, who is fresh
23 back from speaking to the head of the Constitutional
24 Committee in Yugoslavia, to report on matters of
25 similar practice there. I imagine we will
26 look forward to hearing some of these things at
27 the informal parts of the day.

28 I thought I might, to begin, turn to
29 item 1, and report briefly on the activities of
30 myself and the secretariat, so to speak, since

1 the first meeting of the full Committee.

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3 Mr. Stevenson in particular, has been very
4 helpful and very active, as I think you can see
5 before you, in gathering together certain material
6 that is of broad and general interest to all of
7 us. I don't know whether you are beginning to
8 feel overwhelmed by the flood of material through
9 the mail; whether you feel we should be more
10 selective; whether you feel there are other
11 things you may like to have. I do not know what
12 procedures you would like to establish to simplify
13 this activity. Certainly I will be glad to hear
14 from anyone at any time if you come across
15 something you think should be made available to
16 the Committee. It is a simple matter to do that.

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18 I think as we go along we will probably be
19 able to establish some rules of the game and
20 not send out too much material that is unnecessary.

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22 I do not know if you feel there is any
23 advantage in our attempting to form some system
24 of binders for you where you might want to keep
25 these in an orderly manner for reference.

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27 On the other hand, I suppose the questions
28 we are concerned with change in character so
29 quickly, that they become more historical than
30 immediate in short order.

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32 We are giving some thought to that in the
33 secretariat, and I won't detain the meeting on

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that procedural matter here, but if there are
any views about it, perhaps you might let us
know.

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Now, secondly, at the last meeting I was
instructed to convene an ad hoc sub-committee,
consisting of representatives of the three
sub-committees of the last plenary session, to
go over the broad outlines of the programme we
have suggested, to try and establish some
priorities and to try and bring back to the meeting
today a reasonably orderly programme of suggested
work for the summer. That is appended to the
agenda and I would presume will be our principal
business of the day.

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The sub-committee met last Monday afternoon.
It consisted of Professors Laskin and Creighton
from the Constitutional sub-committee; it consisted
of Mr. Perry and Professor McIvor from the
Economic and Fiscal; Professor Brady and Professor
Fox from the Bicultural. We had invited
Mr. Seguin, who unfortunately was unable to come
that day.

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29

I did try to compromise between geographic
representation on the one hand and presuming
unduly on the time of the members on the other
hand, by having most of the members from the
Toronto area for that position.

30

The sub-committee met that afternoon. We

1
2 had hoped to meet with Mr. Robarts at five o'clock,
3 but, as Mr. Farrell can tell you, the Cabinet
4 went on instead until six, and I remained and met
5 with him at that time, and I told him some of the
6 things we were planning to do and cleared some
7 points with him, and certainly everything that
8 we put forward here today, I think, is of interest
9 to him and conforms fairly well to his own
10 priorities.

11 I wonder, are there any questions then, on
12 these procedural matters before we go on to the
13 substance.

14 PROF. BRADY: I wonder, Mr. Chairman, if
15 you might mention what Mr. Robarts suggested as
16 his preferences on the original ---

17 THE CHAIRMAN: Oh, yes.

18 PROF. CREIGHTON: This is later on in the
19 agenda, is it not, Mr. Chairman?

20 DR. FORSEY: Item 3.

21 THE CHAIRMAN: Yes, that is true. However,
22 I might, with your permission, speak to that point
23 now, because it arises out of the sub-committee
24 meeting. After our meeting on March 19 I spoke
25 to Mr. Robarts about the projects we had set
26 out at that time in the memorandum which you
27 have, and he mentioned the following points as
28 being of interest to him -- some of them of
29 immediate interest, others of more long-run interest.

1. *Chlorophyllum molybdites* (L.) Pers. (Molybdites Chlorophyllum)

Common name: *Green Morel* (Green Chlorophyllum)

Other common names: *Green Morel*, *Green Chlorophyllum*

General description: A large, thick, brownish-yellow, *Clavarioid* (club-shaped) mushroom with a prominent, rounded, bulbous base.

Spore color: Brownish-yellow to olive-brown, becoming darker with age.

Spore print: Brownish-yellow to olive-brown, becoming darker with age.

Spore surface: Smooth, with a fine, granular texture, and a smooth cap.

Spore size: 8-12 μ

Spore shape: Subtriangular, with a prominent, rounded, bulbous base.

Spore surface: Smooth, with a fine, granular texture, and a smooth cap.

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Spore size: 8-12 μ

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2 He was interested in any methods by which
3 we might promote greater citizen exchange between
4 Ontario and Quebec in addition to the more formal
5 arrangements that exist. He was interested, and
6 I think it is fair to say more in an academic
7 way, in the concept of a constituent assembly.
8

9 Then his particular concern was with the
10 following points which were brought out by the
11 Constitutional sub-committee at the last meeting,
12 on the first page of that memorandum of the
13 reports of the sub-committees. Four of those
14 points in particular he considered of first
15 priority. The status and powers of Dominion-
16 Provincial conferences of Prime Ministers: he
17 felt that that was a matter that was not only of
18 present importance but of increasing importance.
19 He was also interested in items 3, 6 and 7 which
20 were concurrent powers. Item 6 -- inter-
21 provincial agreements and arrangements; then
22 No. 7 - Institutions of Dominion-Provincial
23 relations; delegation and referential devices,
24 conditional grants, Dominion-Provincial secretariat
25 and Dominion- Provincial conferences other than
26 those of premiers. When we go over the
27 programme, I think you will see the way in which
28 we attempted to take account of those preferences
29 in our own suggestions.
30

PROF. McWHINNEY: Is it possible to

1
2 fill in a little on the reasons for these
3 priorities? I was reading in *LaMonde* in the
4 last two days that there would be a Dominion-
5 Provincial conference in Canada next week to
6 consider the treaty-making power, and this
7 undoubtedly came from Quebec information sources in
8 Paris.

9
10 Is there any reason -- for example, the
11 constituent assembly, is that because this is now
12 an apparent proposal? Is there anything can be
13 stated initially on this, because I wouldn't want
14 to press you.

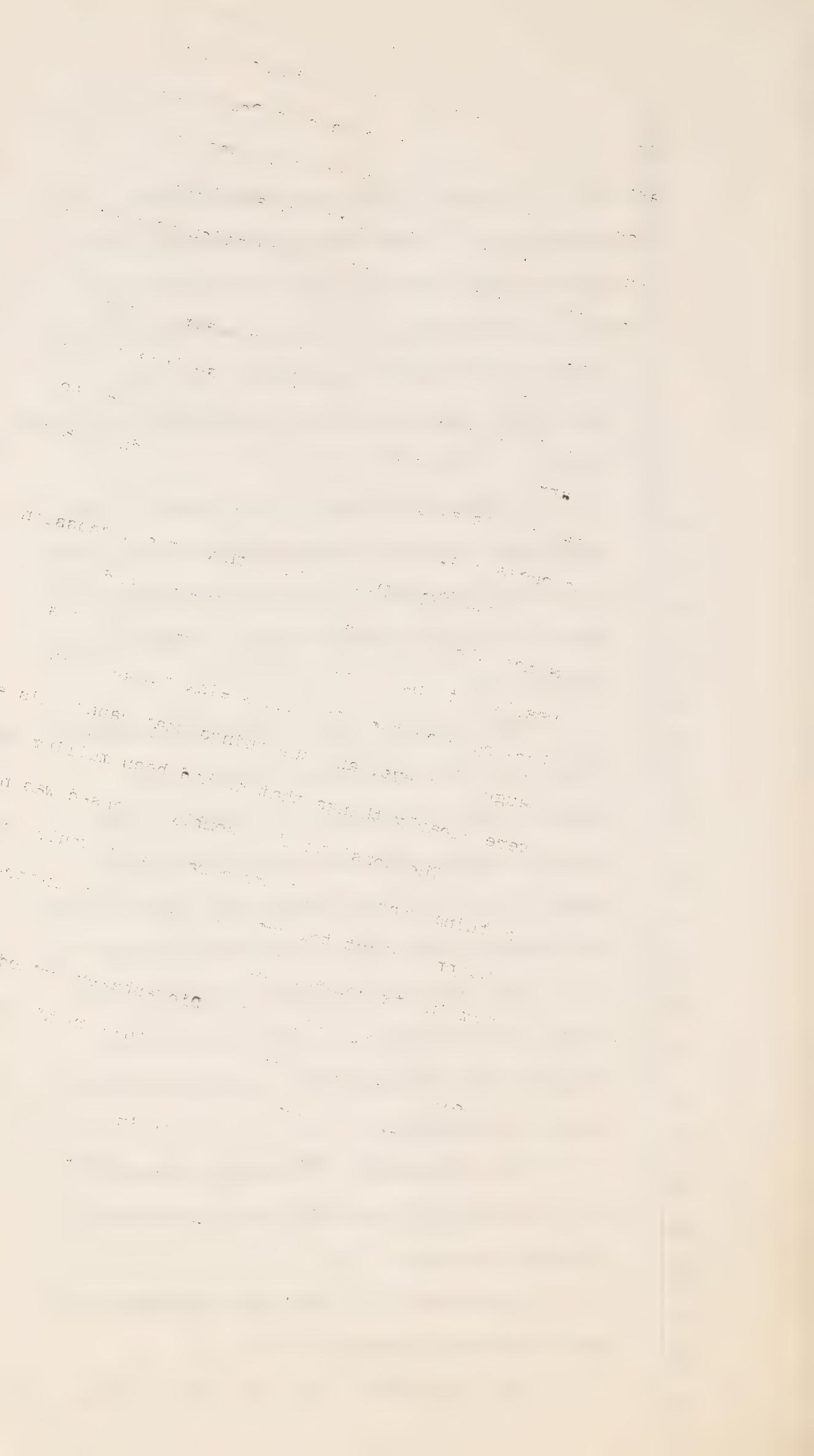
15 THE CHAIRMAN: No, I think the discussion
16 we had about this was quite informal, and
17 really I think it was more of a matter of his
18 looking over the list and seeing things that
19 caught his eye, and the things that caught his eye
20 were clearly things that he had been mulling over.

21 The constituent assembly I sensed was not
22 a thing that he felt was a matter we would be
23 quipped about tomorrow, but one which interested
24 him in its conception.

25 PROF. McWHINNEY: Diefenbaker seemed to
26 have proposed something like this on his speech
27 in Quebec yesterday.

28 THE CHAIRMAN: I don't know whether there
29 is any necessary connection there.

30 PROF. McWHINNEY: No, but this is being



1
2 kicked around, is it not, the possibility of a
3 constituent assembly is being kicked around in
4 the Dominion-Provincial discussion?
5

6 THE CHAIRMAN: I don't really know the
7 answer to that.
8

9 PROF. CREIGHTON: Certainly been no
10 indication in the papers of any such idea at all
11 in provincial government spheres anyway.
12

13 PROF. McWHINNEY: As I say, I have been
14 out of the country for two weeks and I am
15 depending on what we see in the French papers in
16 Paris and they give surprisingly detailed reports
17 and surprisingly detailed coverage of speeches.
18

19 PROF. LASKIN: Have you ever located the
20 source yet?
21

22 PROF. McWHINNEY: This makes me wonder
23 whether there is something more in this than
24 apparently casual.
25

26 DR. FORSEY: It is being booted around a
27 good deal in Quebec. It pops up in one form or
28 another in the Fowler and Faribault
29 book, and I think it is implicit in Mr. O'Hearn's
30 book. I know when I had some correspondence
with Mr. Fowler, he gave me to understand that the
idea of a totally new constitution, which seems
to imply something like constituent assembly,
was one that had an enormous following in the
province of Quebec.
31

1. $\mathcal{L}^2(\mathbb{R}^n)$ is a Banach space with respect to the norm $\|f\| = \left(\int_{\mathbb{R}^n} |f(x)|^2 dx \right)^{1/2}$.

2. $\mathcal{L}^2(\mathbb{R}^n)$ is a Hilbert space with respect to the inner product $\langle f, g \rangle = \int_{\mathbb{R}^n} f(x) \overline{g(x)} dx$.

3. $\mathcal{L}^2(\mathbb{R}^n)$ is a complete metric space with respect to the metric $d(f, g) = \left(\int_{\mathbb{R}^n} |f(x) - g(x)|^2 dx \right)^{1/2}$.

4. $\mathcal{L}^2(\mathbb{R}^n)$ is a separable space.

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20. $\mathcal{L}^2(\mathbb{R}^n)$ is a separable space.

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PROF. BRADY: The idea is quite ancient
as a matter of fact.

4

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PROF. McWHINNEY: Yes.

6

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DR. FORSEY: But I think it is current

now.

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PROF. McWHINNEY: Diefenbaker is reported
as saying instead of the royal commission which
he seemed to insist the Dominion was proposing for
revision of the constitution, in other words, a
royal commission apart from the B and B, that
there should be a constituent assembly. If this
is just another Diefenbaker speech, I suppose we
can pass on.

DEAN LEDERMAN: Mr. Chairman, on page 2

I see my name is associated with constituent
assembly, so I am pricking up my ears on this
discussion.

PROF. McWHINNEY: Is this your idea?

THE CHAIRMAN: No, we will explain that
to you, Mr. Dean.

PROF. LASKIN: All in good time.

DEAN LEDERMAN: My first reaction is, of
course, it opens up the whole question of
constitutional amendment and how to do it; and
unless one dealt with it in that context, it is
just a review of popular proposals, unless you
are going to deal with it in the context of the
presently proposed amending procedure and the

1
2 alternatives.

3 PROF. CREIGHTON: You just sweep away
4 everything, including the amending procedure.

5 DEAN LEDERMAN: Yes.

6 PROF. CREIGHTON: Start afresh.

7 PROF. McWHINNEY: This is what a
8 constituent assembly is, after all, and in effect
9 the amending power becomes irrelevant. Constituent
10 power is a complete alternative; it is a pre-
11 legal issue or situation.

12 DR. FORSEY: It is a most un-conservative
13 suggestion, it seems to me, to emanate from the
14 leader of the Conservative party.

15 MR. GATHERCOLE: Perhaps he didn't understand
16 the situation.

17 PROF. LASKIN: Why are we concerned about
18 all these extraneous matters? We have got a
19 job of work here and, having been associated with
20 the sub-committee, if I may be permitted, Mr.
21 Chairman, to say simply this, that what is being
22 proposed -- and the Chairman will explain it --
23 is a series of background papers, and surely we
24 could just in order to get on with the rest of our
25 work, period.

26 THE CHAIRMAN: To return to Prof. McWhinney's
27 question, I can only say I do not think that
28 there was a deep concern in Mr. Robart's mind
29 about this. I got the impression that in talking

1
2 about this point he responded to this because it
3 is something that has been talked about and
4 something that was in the air and therefore
5 something that was in his mind, and I do not
6 think it is a matter he feels is of immediate
7 practical concern.

8 Nonetheless, the sub-committee felt -- and
9 I do not want to presume on the next part of the
10 agenda -- the sub-committee felt that we should
11 be anticipating some of these things.

12 PROF. BRADY: It seems too, that Mr. Robarts
13 might want information about this in time, and
14 it would be appropriate to have amongst the
15 policy papers one on the subject.

16 I do not think it is assumed that it is,
17 from our point of view, necessarily a significant
18 theme, or from his point of view that it is a
19 significant one; but it might pop into a
20 position of some public interest in a year or two,
21 and it would be advantageous to have a background
22 paper on it.

23 DR. FORSEY: I am afraid it might pop
24 into a position of some public interest inside of
25 a week or two or a day or two. You can never
26 tell.

27 I think in the speeches of Mr. Gerin-Lajoie
28 on the treaty business which stirred up such a
29 dust, there was a paragraph which got rather

1 overlooked; and while it does not say that there
2 ought to be a completely new constitution, complete
3 revision of the constitution, nevertheless it does
4 mention such a number of specific things that have
5 got to be revised from stem to stern, adding in
6 gay fashion: "Combien d'autres mattieres" -- how
7 many other things too? Then he goes on rubbing
8 it in with the list of fields where transformations
9 are imperative as far from being complete. He
10 has only thrown in the status of the Lieutenant
11 Governor and The Supreme Court and questions of
12 civil and constitutional law, the field of
13 linguistic right, banking ---

14
15 THE CHAIRMAN: Excuse me, what page are you
16 reading from?

17 DR. FORSEY: Page 12 -- banking, economic
18 affairs, radio and television, international
19 competence, and then he says: How many other
20 things?", and this is far from being a complete
21 list.

22 This, as I say, may not mean a complete
23 revision, but at any minute this thing may burst
24 fully armed from the mouth of Mr. Gerin-Lajoie
25 or somebody else in Quebec, and Mr. Robarts may
26 be faced with the necessity of having a background
27 paper which will enable him to comment on it with
28 knowledge and authority.

29 PROF. LASKIN: We can always sit in
30

1880-1881. - 1881-1882. - 1882-1883. - 1883-1884.

1884-1885. - 1885-1886. - 1886-1887. - 1887-1888.

1888-1889. - 1889-1890. - 1890-1891. - 1891-1892.

1892-1893. - 1893-1894. - 1894-1895. - 1895-1896.

1896-1897. - 1897-1898. - 1898-1899. - 1899-1900.

1900-1901. - 1901-1902. - 1902-1903. - 1903-1904.

1904-1905. - 1905-1906. - 1906-1907. - 1907-1908.

1908-1909. - 1909-1910. - 1910-1911. - 1911-1912.

1912-1913. - 1913-1914. - 1914-1915. - 1915-1916.

1916-1917. - 1917-1918. - 1918-1919. - 1919-1920.

1920-1921. - 1921-1922. - 1922-1923. - 1923-1924.

1924-1925. - 1925-1926. - 1926-1927. - 1927-1928.

1928-1929. - 1929-1930. - 1930-1931. - 1931-1932.

1932-1933. - 1933-1934. - 1934-1935. - 1935-1936.

1936-1937. - 1937-1938. - 1938-1939. - 1939-1940.

1940-1941. - 1941-1942. - 1942-1943. - 1943-1944.

1944-1945. - 1945-1946. - 1946-1947. - 1947-1948.

1948-1949. - 1949-1950. - 1950-1951. - 1951-1952.

1952-1953. - 1953-1954. - 1954-1955. - 1955-1956.

1956-1957. - 1957-1958. - 1958-1959. - 1959-1960.

1960-1961. - 1961-1962. - 1962-1963. - 1963-1964.

1964-1965. - 1965-1966. - 1966-1967. - 1967-1968.

1968-1969. - 1969-1970. - 1970-1971. - 1971-1972.

1972-1973. - 1973-1974. - 1974-1975. - 1975-1976.

1976-1977. - 1977-1978. - 1978-1979. - 1979-1980.

1980-1981. - 1981-1982. - 1982-1983. - 1983-1984.

1984-1985. - 1985-1986. - 1986-1987. - 1987-1988.

1 continuous session.
2

3 THE CHAIRMAN: That is one of the points
4 I am going to suggest, that when we go into
5 sub-committees today, I would like some guidance
6 on; because the thing that worries me a bit
7 about this committee is that we are not a group
8 of advisers that is sitting daily with the Prime
9 Minister, so to speak. Therefore we are in a
10 position of doing work which involves a certain
11 amount of long-run preparation and, therefore,
12 one in which we have, I think, to try and anticipate
13 really material he should be armed with when the
14 issues arise.

15 DR. FORSEY: I was merely trying to
16 emphasize that this talk about constituent assembly
17 may not be so purely academic and so remote as
18 perhaps it appears. It could suddenly assume the
19 centre of the stage.

20 PROF. McWHINNEY: It is popular political
21 property, I think, in Quebec, I think it is clear
22 from the speeches of the last week.

23 MR. GATHERCOLE: I don't know whether it
24 would be proper to say this, Mr. Chairman, but
25 I would think one of the major functions of this
26 Committee would be to do more than prepare
27 memoranda on different subjects. It does seem
28 to me that we can look at some of these far-out
29 studies that may be made, but we also ought to be,
30

1
2 it seems to me, discussing the policy that
3 perhaps you would present to the Premier as being
4 the wisest, most prudent policy to establish in
5 the present context.

6 Now, for one I am not for dismantling the
7 constitution at all. I think it is worthwhile
8 struggling for.

9 Now, there are many sensitive areas in here,
10 and it is not a matter of making a bold
11 presentation which is not based upon an understanding
12 of the foment and agitation which is in the
13 province of Quebec and perhaps elsewhere to a
14 smaller degree; but at the same time it must be
15 a presentation which is going to preserve that
16 which many of us are very desirous of being
17 preserved, and that appears to the rest of the
18 country. That is just the sort of suggestion
19 I have.

20 It seemed to me, I think we ought to, aside
21 from undertaking this background material, and
22 exploring and analyzing these different forms, we
23 ought also perhaps to be making available to you
24 and through you to the Prime Minister, some sort
25 of crystallization of thought as to what our
26 Ontario approach should be in the present context
27 from the context which may arise in the course of
28 the next few months. I may be quite wrong on this,
29 but this is my thought.

1
2 PROF. McIVOR: I don't think it was the
3 view of the members of the sub-committee, and
4 I think not of the committee as a whole, that
5 we should merely confine ourselves to preparing a
6 few research papers on matters of either immediate
7 or distant importance, but that, as Professor
8 Laskin has said, this is an essential step, if
9 we are then going to put the Committee in the
10 position of being able to express some independent
11 judgments and recommendations on these various
12 issues for the Prime Minister. We have
13 contemplated these various things being merely an
14 initial discovery exercise that has to be gone
15 through before we can bring the judgments of the
16 Committee to bear.
17

18 MR. GATHERCOLE: I agree very much and
19 I understand that. I was just trying to put
20 things a little bit in perspective in expressing
21 a point of view.
22

23 PROF. McWHINNEY: I think this is an
24 important point, because, you see, at a certain
25 stage one understands that finally in Quebec the
26 young rebels have moved into the Union Nationale,
27 and Gerin-Lajoie and these other chaps in
28 self-defense are jumping on the bandwagon; and
29 until Lesage drops the present Favreau formula,
30 as may occur, we may be forced to take the
position, as a province, on the issue whether one

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1
2 has a constituent assembly. There is a high policy
3 issue involved.

4 This is one of the things I was not clear on,
5 as to whether, as a Committee, we would not merely
6 present background papers, but we would get into
7 this issue: whether we should, in other words,
8 consent to a constituent assembly, the discussion
9 of a new constitution, as opposed to the issue of
10 piecemeal amendments and change.

11 If it is within our competence to do this,
12 of course, it gives quite a new dimension and scope
13 I think, to the work of the Committee.

14 THE CHAIRMAN: Certainly within our
15 competence and clearly one within our terms of
16 reference. I think I suggested at the beginning
17 of the first meeting that we are really proceeding
18 on two fronts -- to give advice, to do research;
19 and that these two things should be obviously
20 related; that we need not wait always for an
21 assembly over a period of months of this group on
22 all phases, the material we need, because this
23 group is so called by virtue of its capacity to
24 give advice obviously of an immediate nature as
25 well.

26 Really the only question in my mind is
27 a purely practical one. Since we are not in daily
28 consultation, what is the best practical means of
29 getting advice on issues that come up daily to the
30

W. E. B. DuBois, "The Negro in World War," in *W. E. B. DuBois, The Negro in World War* (1919).

1. *W. E. B. DuBois, The Negro in World War* (1919).

2. *W. E. B. DuBois, The Negro in World War* (1919).

3. *W. E. B. DuBois, The Negro in World War* (1919).

4. *W. E. B. DuBois, The Negro in World War* (1919).

5. *W. E. B. DuBois, The Negro in World War* (1919).

6. *W. E. B. DuBois, The Negro in World War* (1919).

7. *W. E. B. DuBois, The Negro in World War* (1919).

8. *W. E. B. DuBois, The Negro in World War* (1919).

9. *W. E. B. DuBois, The Negro in World War* (1919).

10. *W. E. B. DuBois, The Negro in World War* (1919).

11. *W. E. B. DuBois, The Negro in World War* (1919).

12. *W. E. B. DuBois, The Negro in World War* (1919).

13. *W. E. B. DuBois, The Negro in World War* (1919).

14. *W. E. B. DuBois, The Negro in World War* (1919).

15. *W. E. B. DuBois, The Negro in World War* (1919).

16. *W. E. B. DuBois, The Negro in World War* (1919).

17. *W. E. B. DuBois, The Negro in World War* (1919).

18. *W. E. B. DuBois, The Negro in World War* (1919).

19. *W. E. B. DuBois, The Negro in World War* (1919).

20. *W. E. B. DuBois, The Negro in World War* (1919).

21. *W. E. B. DuBois, The Negro in World War* (1919).

22. *W. E. B. DuBois, The Negro in World War* (1919).

23. *W. E. B. DuBois, The Negro in World War* (1919).

24. *W. E. B. DuBois, The Negro in World War* (1919).

1 Prime Minister?
2

3 I think that a large part of our work in
4 sub-committees today, if I may make this suggestion,
5 should be concerned with that point where we can
6 talk about not only the procedure but matters of
7 immediate concern in smaller groups, and then try
8 to bring them together later in the day in the
9 plenary meeting.

10 PROF. BRADY: I think, Mr. Chairman, it
11 should be added I used the term "background paper".
12 I did not assume that that excluded evaluation,
13 let us say, of the thing that was examined. I
14 think there should be such evaluation.

15 In other words, it is not merely a factual
16 presentation, but there should be some attempt,
17 to be of much interest, of evaluation. Then when
18 the papers appear before this joint Committee there
19 may be different view from the views of the person
20 who is responsible for the paper, and perhaps it
21 might be altered a bit in character; but I assumed
22 that this paper which the sub-committee the other
23 day suggested or prepared, should have this
24 character -- evaluates as well as factual.

25 MR. PERRY: You are making a valid assumption
26 that one has to know what one is evaluating before
27 one makes an evaluation. I don't know what a
28 constituent assembly is. I am sure this has
29 occurred to several members of the Committee.

1
2 PROF. BRADY: That would be obviously
3 described in the paper, and then what is the
4 significance of it, what is its relevance?
5

6 PROF. McWHINNEY: Except that the level of
7 the policy competence of the Committee necessarily
8 determines what you say constituent assembly is.
9

10 If you proceed on the basis of studying
11 only constituent assemblies within stabilized
12 societies with a continuing constitutional
13 tradition, this is quite a modest and quite limited
14 piece of research. If you study from revolutionary
15 societies, it is quite a different thing.
16

17 So I think George Gathercole's point is
18 really very relevant here. It is in the big sense.
19 One would be giving advice to the Prime Minister:
20 "You should at this stage consider the constituent
21 assembly", or "you should at this stage oppose it".
22 I think this gives it quite a different dimension
23 from the research.
24

25 MR. GATHERCOLE: I think, Mr. Chairman,
26 my point was that simultaneously with the background
27 studies we ought to be going ahead and trying to
28 crystallize some policy which we believe the
29 government ought to adopt in the present situation,
30 and what might likely be adopted in the future.
31 That is a big order, but nevertheless ----

32 PROF. LASKIN: I come back to my question.
33 I don't know why we are sitting around here like
34

1 a bunch of school boys, all of us involved in
2 doing background papers and making evaluations
3 and making policy decisions on the basis of it;
4 why we suddenly freeze up and have to spend this
5 much time discussing what to me is so perfectly
6 obvious and what I think was obvious to us at the
7 first meeting at which we met here. I hope I am
8 not being rude, but it just seemed to me there
9 were two things that we decided last time: First,
10 that we would exercise an independent initiative
11 on matters which we thought were of immediate
12 concern, and bring them to the attention of the
13 Prime Minister; secondly, that, being a Committee
14 advisory to him, we would, of course, defer to
15 his own order of priorities.

16 Now, he has indicated to us and to the
17 sub-committee what his priorities are, and the
18 sub-committee gave some attention to them, and the
19 Chairman has reported on it.

20 Now, if we think beyond that there are
21 matters that more urgently need attention in our
22 view, all we can do is lay it on the table and it
23 then becomes a question as to how much time this
24 Committee is prepared to spend in collective
25 session in coming to decisions.

26 I mean, there are some matters within our
27 agenda on which I could make a decision in five
28 minutes, but that is not true of every member of

1
2 this Committee. There are some matters on this
3 agenda that I could not make a decision on in
4 five months unless I had a background paper from
5 Harvey Perry or someone else.
6

7 So that acting in the collective fashion and
8 trying to bring together our various talents
9 surely is the only way in which we can proceed,
10 unless we are prepared as a committee, to
11 delegate to the constitutional group the decision-
12 making on constitutional questions. I just do
13 not know what a constitutional question is in
14 that context, any more than I know what an economic
15 question is, because these matters are all
16 inter-related.
17

18 So surely we have to act as a collective
19 group and simply suffer the necessary consequences
20 of collective study, which involves a little bit
21 of delay.
22

23 It would be lovely if we could hand the
24 Prime Minister on a platter tomorrow morning, or
25 even late tonight, a complete table of action that
26 will guide the government of Ontario for the
27 next three or four years. You know we cannot do
28 that, so why don't we get down to work.
29

30 THE CHAIRMAN: Well, that has a degree of
31 practical persuasion that I am sure it is hard
32 to resist.
33

34 PROF. CREIGHTON: Hear, Hear!

1
2 THE CHAIRMAN: If I may go on to item 2,
3 these are some procedural questions that need not,
4 I expect, in all parts, delay us too long, but
5 I want some guidance on a couple of them.
6

7 The first one: Should our programme of
8 research be public knowledge? I put this here
9 because of several reasons but most importantly
10 because from time to time I have been called or
11 approached by quite responsible journalists and
12 writers who have said: "Now, this Committee
13 was inaugurated with a certain amount of fanfare.
14 We understand that the advice that is given to
15 the Prime Minister is private, but we are rather
16 interested in knowing exactly what it is you are
17 doing, how you are approaching the matter, and
18 what matters you propose examining".
19

20 In a lesser way, we had a request for
21 information from a Frenchman, Mr. Lacour-Gayet,
22 who is a former inspector of finance in France
23 and who is writing a book on Canada for
24 publication in France in the year 1967. He would
25 like to say something of the active groups in the
26 country at this time on this question and something
27 about what they are doing.
28

29 I anticipate that this is going to be
30 happening to me all the time, and I should like
some guidance from you on the procedure here.

PROF. CREIGHTON: With respect to

1
2 Mr. Lacour-Gayet, I would suggest that the request
3 be refused. I mean, if this is done, there are
4 dozens -- at least there are more than dozens,
5 there are perhaps scores -- of historians in Canada
6 who are very interested in our proceedings, and
7 would love to have information of a kind, and if
8 you give it to him you have got to give it to
9 everybody. I think on the whole it would be very
10 unwise.

11 MR. GATHERCOLE: Isn't this a matter,
12 Mr. Chairman, that could be left to your own
13 discretion? My own approach here would be that
14 anything that could be reasonably released should
15 be released. I would think there would be a
16 considerable number of documents which should be
17 kept confidential, but if there is some information
18 the release of which would do no harm and might do
19 considerable good, I see no objection to it.

20 THE CHAIRMAN: The point is not actually
21 so much the release of information arising out of
22 our work, but simply the question of what it is
23 we are doing, when one is asked: "What sort of
24 questions are interesting to you, what is it
25 you are exploring?".

26 PROF. SYMONS: Mr. Chairman, the terms of
27 reference are public knowledge, aren't they, of
28 course?

29 THE CHAIRMAN: Yes, they are.
30

1
2 DR. FORSEY: I would tell them as little
3 as possible. If you start telling them, for
4 example, that we are investigating constituent
5 assembly and these other things, in less than no
6 time you will have all these pestilential newspaper
7 men, particularly from The Toronto Star, calling
8 you at all hours of day and night demanding all
9 sorts of things, sometimes with menaces, and trying
10 to work out of you everything that they can.
11 Then they go from one member of the Committee to
12 the other until they have wormed a pennyworth out
13 of each one and they will make a pound.
14

15 PROF. McWHINNEY: The research projects
16 indicate in measure the political priorities quite
17 obviously the Premier and others give to certain
18 matters. If it is studying treaty-making powers,
19 so of course he thinks there must be a problem.
20 I think we should keep this confidential; give
21 them the terms of reference and the membership of
22 the Committee.
23

24 PROF. LASKIN: I have a very simple mind,
25 Mr. Chairman. We are an advisory Committee to
26 the Premier. True, we exercise the initiative,
27 but it is an initiative we exercise and direct to
28 him. Surely our programme is something that we
29 tell him about. If he wants to release it, it
30 is his prerogative, and surely that is all we have
to do.

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--- Cries of hear! hear!

THE CHAIRMAN: I take it there is general support of that. As a civil servant I certainly find that a comfortable and congenial suggestion.

MR. PERRY: I think anything else would be intolerable.

THE CHAIRMAN: Next, the question came up in the sub-committee about the access which working members of this group might require to confidential information, particularly information pertaining to federal-provincial conferences of Prime Ministers which, as you see, is one of the subjects that we propose research upon.

Now, I have spoken about this approval to Mr. Robarts and also to Ray Farrell who is familiar with this material, and, George, you have been involved in these things too.

Mr. Robarts said that he did not see any particular problem about the Committee getting access to such information and material as exists here; but, to be fair to him and to myself, I do not think that he necessarily has thought of all the possible implications of that point.

As I say, we spoke very quickly about it. I have spoken to Ray. I don't know whether you have any other thoughts about this, Ray.

MR. FARRELL: Oh, we have some material on the last few conferences, but I imagine that

1
2 the details would either be in Economic Development
3 or in the Research branch of Treasury, most of
4 these things. That is where the work is being
5 all prepared and the background and the Prime
6 ^Minister's statements on the conferences.
7

8 PROF. FOX: Can I raise the question here of
9 what sort of commitment the civil servant takes
10 when he goes to work for the Government? Is there
11 in the provincial service an oath of secrecy?

12 THE CHAIRMAN: Yes, you sign a simple oath
13 of secrecy.

14 PROF. FOX: I am wondering if in the case of
15 supervisors of projects, where confidential
16 information is required, if it would not be a good
17 idea to apply this to them, on the assumption
18 that they are temporary civil servants, or some
19 sort of arrangement could be made; because
20 obviously the students that you use for the summer
21 relief work on this will be bound by their
22 particular oath, and it would seem to me to be the
23 obvious solution of the thing, to have the supervisors
24 subscribe to this and then be given access.
25 I think if the supervisor is not given access to
26 the work that is being done that the student has
27 access to, the thing becomes absurd.

28 THE CHAIRMAN: I agree. On the other hand
29 what deterred me a little is to what extent this
30 complicates life for an academic person in

2 particular who is writing and speaking about these
3 things, to be circumscribed in this way.

4 PROF. FOX: He will just have to be more
5 careful, if he is not already careful.

6 PROF. BRADY: Are summer students really
7 recognized as temporary civil servants?

8 THE CHAIRMAN: Yes, we certainly make them
9 civil servants, and I think then they are on the
10 payroll, so to speak, of the Government.

11 MR. STEVENSON: We haven't in the past
12 stooped to giving summer students the oath of
13 secrecy.

14 PROF. BRADY: Have you any of them
15 dealing with confidential matters in the past that
16 is not public knowledge?

17 MR. STEVENSON: The fringe areas.

18 MR. GATHERCOLE: My feeling is that they lend
19 themselves to just wise judgment, whatever the
20 rule is on these items (a) and (b) in this particular
21 case as well. There are great degrees of confidence,
22 as all you gentlemen will recognize. There are
23 some matters that even the Prime Minister will
24 not divulge to his Cabinet members, and so on
25 right down the list.

26 It does seem to me that this is a matter,
27 Mr. Chairman, of judgment, and in the vast number
28 of cases the question of releasing confidential
29 information will not arise; that the information
30

1
2 will be classified in this way, and in such cases
3 as it is classified as confidential, then it seems
4 to me it constitutes a specific case and it is up
5 to yourself or whoever has oversight of the matter,
6 to make the judgment as to whether that information
7 should be released.

8 PROF. LASKIN: Mr. Chairman, if it is in
9 order, I would like to move that having regard to
10 Prof. Fox's motion, that you as Chairman of this
11 Committee be authorized to make whatever arrangements
12 seem to be most consistent with government policy
13 in this area.

14 THE CHAIRMAN: All right, we will place that
15 motion before the meeting. Have we a seconder?
16 Is there general agreement? Carried.

17 MR. PERRY: May I ask if the Committee
18 itself automatically comes under the rule of
19 secrecy by virtue of its appointment, or are we
20 simply trusted because we are honourable souls?

21 THE CHAIRMAN: The only thing I can say to
22 that is that when the Committee was being designed,
23 I raised the point with the Prime Minister that I
24 presumed that this did not prevent members of the
25 Committee from carrying on with their public and
26 private programmes as they had done before, and he
27 said, "Certainly not".

28 DEAN LEDERMAN: Mr. Chairman, I presume
29 this is an important matter for the discretion of

2 individuals. Obviously all of us who are going
3 to be working in fields that are of particular
4 interest and in which we do take public positions,
5 must do so, but it is a question of not ascribing
6 one's own views to any particular source of
7 governmental information. Isn't that it? It is
8 a question of being careful about this.
9

10 I know people write books; I have never been
11 in this position but some people write books about
12 foreign affairs who have had access to files which
13 they cannot use, but it corroborates other evidence
14 they have, and they can cite the other evidence and
15 come to the conclusions, but they never reveal the
16 fact that they have had access to a confidential
17 file which may have helped them, but unless your
18 conclusions would be supported from other evidence
19 you do not make it.

20 THE CHAIRMAN: I think I have the feeling of
21 the meeting on that point, thank you.
22

23 (c) -- this is the report of the recommendations
24 of the sub-committee on financial arrangements,
25 on the basis of which I have been trying to
26 contrive something in the nature of a budget to
27 present to Mr. Robarts.
28

29 The only advice I have from him on this
30 point so far is that in all reasonable limits we
should not be worried about money.

31 Three recommendations from the sub-committee:
32

1
2 that students be employed at the rate of \$100 a
3 week. This is rather more than we normally pay
4 summer students in the Department of Economics and
5 Development; and that, on the assumption that the
6 students we employ are going to be students in
7 their early graduate years or having just finished
8 their undergraduate work, we should not distinguish
9 between their stage on the academic ladder but have
10 a general category of \$100 a week.
11

12 Secondly, after some discussion, it was
13 recommended that supervision by members of the
14 Committee here of work done by students in the
15 working papers, should be at the rate of \$15 an
16 hour.
17

18 I have been trying to design a budget on
19 the rough rule of thumb that, although not related
20 in a day-to-day sense, that perhaps an eight hour
21 day's work by a student, might, over the long haul,
22 involve an hour's supervision time, or a ratio of
23 that kind, to give me some guidance on the budget.
24

25 Thirdly, the question of the per diem
26 allowance to members of this Committee came up as
27 a somewhat delicate question but one in which I
28 appreciated the frank views of the members of the
29 sub-committee, because I had had some doubts about
30 this right from the beginning. It was pointed
out that advisers is not the correct term, Paul.

1
2 THE CHAIRMAN: The Advisory Committee on
3 research of the B and B Commission are paid at the
4 rate of \$80 a day. I felt that this was a
5 reasonable recommendation to put forward. I felt
6 it might be a little embarrassing to go right
7 away and say to the Prime Minister that the boys
8 felt they were not being paid enough; but it
9 seemed a diplomatic way to handle this, to put it
10 this way, that we establish work to be done over
11 the summer and then in the fall should come back
12 to review the work that has been done, and
13 reconvene for a new session, so to speak, and that
14 would be a time to establish a new schedule.
15

16 I wonder if there are any comments now or
17 discussion of these recommendations of the
18 sub-committee.

19 PROF.FOX: Just one small point that
20 occurs to me as you go through, that we did not
21 think about in the sub-committee the other day, and
22 that is in the case of a person who is a member
23 of this Committee, preparing a paper -- such as
24 might occur in item 2 on the next page if Professor
25 Laskin prepares a paper for us. We did not make
26 any provision categorically here.

27 THE CHAIRMAN: This is quite right.

28 PROF.FOX: I don't know what your thoughts
29 were on it. I don't think we had any choice on
30 the subject.

1
2 THE CHAIRMAN: No, we should complete
3 this for the purpose of research assignments by
4 members of this Committee. I would welcome your
5 advice on that.

6 PROF. BRADY: I wonder, Mr. Chairman, if
7 there may not on occasion be a little difficulty
8 in distinguishing between supervision and an
9 actual piece of research on the part of the
10 supervisor.

11 I, like a goodly number of people here, have
12 had long experience of supervising essays or
13 theses, graduate theses, and spent an immense amount
14 of time in seeing that the thesis really falls in
15 what we regard as an approved form.

16 PROF. CREIGHTON: Hear! Hear!

17 PROF. BRADY: The matter and so on. In
18 fact, it has been sometimes hinted that members
19 of the staff write the thesis.

20 PROF. LASKIN: I hope they got through.

21
22 --- Laughter

23 PROF. BRADY: I think there is a point here
24 that I can imagine that the supervisor may want
25 to do research himself on a given theme.

26 I mention this because the situation perhaps
27 is not quite as simple as I think you will
28 appreciate.

29 THE CHAIRMAN: Yes, I know.

PROF. BRADY: It is not quite as simple as your description in your opening remarks.

THE CHAIRMAN: Isn't it an obvious thing to do, to pay for preparation at the same rate as supervision?

MR. GATHERCOLE: May I make a suggestion that has withstood a good deal of experience through the course of time on a variety of committees. That is, that if your per diem rate was established for each member of the Committee, then it was felt that that would apply to any additional work that the members of the Committee did, and that one day was equivalent to seven hours.

In other words, the person might work an hour, two hours or three hours or so, but in the multiples of seven hours, he would be entitled, an individual would be entitled, to one per diem allowance.

THE CHAIRMAN: "This day has seven hours".

MR. GATHERCOLE: Seven hours constitutes a day. In other words, it will all fall into the same multiple, and a person working one hour, two hours, an hour and a half, he just keeps track of the number of hours he is engaged in the work of the committee, whether it is supervision or whether it is any other work that he does. Then it is all added up and divided by seven and multiplied by the per diem allowance.

MR. PERRY: The trouble with it is it produces an hourly rate half of what is the range for supervision.

THE CHAIRMAN: If we use \$80 it comes to about \$11.

MR. PERRY: Still less than \$15.

MR. GATHERCOLE: It does that, but on the other hand you take the ---

PROF. LASKIN: You take your choice whether you want to do it on an hourly basis or divide by seven and do it on a daily basis, that is all.

MR. PERRY: Shouldn't be hard to make up one's mind about that.

PROF. LASKIN: If you take the other rate, it will be your contribution to the public weal.

PROF. SYMONS: Mr. Chairman, as this is a question now on which we have got the views of the Committee, we might leave it to you and your sub-committee for final decision.

THE CHAIRMAN: I will be happy to treat it that way. My own sense of tidiness here would suggest that when we have agreed upon the \$15 a day supervision fee, in view of the difficulty of disentangling work from supervision, as Prof. Brady has pointed out, we might simply stick to that as the governing fee for members of the Committee in their work.

PROF. CREIGHTON: It does imply, though,

1
2 that our contributions through supervision or
3 through research are more valuable than our journeys
4 that we make at this time, which is not necessarily
5 the case perhaps.

6 DEAN LEDERMAN: My reaction, Mr. Chairman,
7 would be to put the per diem rate up to what is
8 judged to be a proper level, and then use it for
9 all types of work; but I think this \$50 at the
10 moment, I accepted that, as I think we all did,
11 without protest, but I confess I did think it was
12 a little low. Perhaps we ought to face the per
13 diem rate issue now, because it will solve these
14 other things if the per diem rate issue is right.
15 However, that is just a thought.

16 MR. GATHERCOLE: You are moving the per
17 diem rate up to \$80, are you?

18 THE CHAIRMAN: This is what has been
19 proposed to the Prime Minister.

20 PROF. BRADY: But not till the fall.

21 MR. GATHERCOLE: Is that fair or is it?

22 THE CHAIRMAN: It may be an unnecessary
23 stratagem on my part, I don't know. I don't know
24 that there is any reason not to deal with it
25 immediately.

26 PROF. McWHINNEY: What is the purpose of
27 this point? I take it most of the research will
28 be done during the summer, to be very practical.

29 THE CHAIRMAN: I suppose there is no point.

1 I suppose it is more intuitive than practical.
2

3 I am prepared to consider it now.
4

5 PROF. McWHINNEY: Would it help you if you
6 had a motion or a recommendation through us?
7

8 THE CHAIRMAN: I think I wouldlike to have
9 some fairly clear instruction.
10

11 MR. GATHERCOLE: Can I ask this one point in
12 clarification. Where professors here have
13 alternatives to increased income, it does seem to
14 me that they have to make sacrifices, if they
15 devote time to, say, reading of material, study of
16 the material, which is going to enable them to do
17 a better job obviously; and whether they would be
18 entitled to charge that to this rate. I just ask
19 that question and I am not pushing it one way or
20 the other, but I do know this that in the past
21 various committees that we have had, the member of
22 the committee was entitled and justified, and we
23 felt he was justified, that he be remunerated on the
24 basis of the time which he devoted to reading
25 manuscripts in connection with it so long as he w as
26 engaged upon the specific work of the committee.
27

28 PROF. McIVOR: Or as a specific example,
29 George, some of these research papers that are
30 produced under the supervision of the Committee,
there is going to have to be a good deal of time
spent on them obviously, if these are so important,
to prepare ourselves for dealing with them.

1
2 MR. GATHERCOLE: This was all wrapped up
3 in the per diem rate, I think, in the manner I
4 explained.

5 PROF. McIVOR: It hasn't been now, but
6 I say this is a relevant question.

7 PROF. SYMONS: Mr. Chairman, I sense that
8 it is particularly difficult for you, and you might
9 want some specific directions from the Committee.
10 If it is the Committee's wish, I will be prepared
11 to move that it be recommended that the per diem
12 rate be set at the \$80 figure as you suggested,
13 effective as soon as may be convenient in the
14 opinion of the Prime Minister; and that as to the
15 various other points that have been raised, including
16 the point by Mr. Gathercole, they should be pro-
17 rated to that figure; and that time spent, whether
18 in supervision or research or in study of papers
19 and reading background material, should be based
20 upon a calculation hourly at the per diem rate.
21 Would that help?

22
23 THE CHAIRMAN: The per diem, it being seven,
24 something like that.

25 MR. GATHERCOLE: Seven hours constitutes
26 a day.

27 MR. McWHINNEY: In effect it dispenses with
28 sub-clause (ii) of (c) here, to sort of incorporate
29 it altogether. There would be a slight
30 financial difference.

1 THE CHAIRMAN: That is right.

2 PROF. LASKIN: You can always reduce the
3 working day to six hours a day to make it come out.

4 MR. GATHERCOLE: There was just one
5 limitation, I believe, that no person would receive
6 an honorarium which was in excess of one day's
7 allowance.

8 In other words, if we met here for eight
9 hours or eight and a half hours or something of
10 that kind, then a person would not be entitled to
11 the multiple of eight and a half over seven.

12 DEAN DILLON: The idea here, Mr. Chairman,
13 is that in no case can you earn more than one day's
14 pay in one day.

15 MR. GATHERCOLE: That is right.

16 DEAN DILLON: A day is a minimum of seven
17 hours, but anything over and above that is still a
18 day.

19 MR. MAGONE: Mr. Chairman, does anyone feel
20 sorry for the shorthand reporter?

21 THE CHAIRMAN: I am hoping to break in
22 a minute for coffee. I am trying to keep things
23 going so that we can break at eleven. Do you
24 mind if we just conclude this point.

25 PROF. McWHINNEY: I think Tom is reasonable.

26 MR. GATHERCOLE: Why not finish this up?

27 PROF. SYMONS: I so move.

28 THE CHAIRMAN: Can I have that again?

2 PROF. SYMONS: Yes, I moved that this
3 Committee recommend that the per diem rate be set
4 on the \$80 figure as suggested, as soon as may be
5 convenient, or whatever day may be convenient in
6 your view and if it is convenient to the Prime
7 Minister; and that work related to the membership
8 in this Committee, such as research, supervision,
9 study and examination of background material, should
10 be remunerated on the per diem rate calculated in
11 some instances on an hourly rate.

12 THE CHAIRMAN: Considering the ---

13 PROF. SYMONS: Considering the maximum ---

14 THE CHAIRMAN: What about the working day to
15 be six hours?

16 PROF. LASKIN: Six hours.

17 THE CHAIRMAN: But our meetings here have
18 certainly been no more than that. This would
19 fortify the hourly rate a bit.

20 DEAN LEDERMAN: I think six is a good
21 compromise.

22 MR. GATHERCOLE: With the further limitation
23 that no one receives more than one day's remuneration
24 in one day.

25 PROF. McWHINNEY: For meetings. For research,
26 as you know, sometimes there is a twenty hour day.

27 MR. GATHERCOLE: All right.

28 THE CHAIRMAN: All right. We will not get
29 into time and a half then.

1
2 MR. GATHERCOLE: You don't get into that,
3 because you just keep track of the hours.

4 DR. FORSEY: Sounds so much more familiar.

5 THE CHAIRMAN: As a member of the Canadian
6 Labour Congress, you have been very silent.

7 Just before we break, I don't know whether
8 anyone has any bureaucratic difficulties claiming
9 their expenses so far. I take it these have been
10 going through all right, have they, Ray?

11 MR. FARRELL: Yes, pretty well.

12 THE CHAIRMAN: I am going to discuss with
13 the secretariat members some procedures for either
14 simplifying the form or one more appropriate to our
15 purposes, but I don't know about this.

16 I am going to suggest that we should break
17 for coffee and then re-convene in the sub-
18 committees that we established at the last meeting;
19 and, in the sub-committees to consider the programme
20 that was put forward by the ad hoc sub-committee
21 on Monday.

22 I am not suggesting that every Committee need
23 consider all of these items, but we should try and
24 perhaps define or refine them a little more
25 clearly or raise issue with them, but consider
26 the general procedure and the devices of completion
27 that seem appropriate.

28 The first four refer to the constitutional
29 sub-committee. The next three refer to the

1
2 economics and fiscal committee, and the last three
3 refer to the bi-cultural sub-committee.

4 In addition to looking at the programme and
5 any other matters of programme that we might care
6 to suggest, I would be grateful if we could
7 consider this point that we had discussed earlier:
8 to have some general discussions on the points and
9 issues of the day, and to prepare any general
10 advice that you may wish to be forthcoming at this
11 time for transmission to the Prime Minister.

12 We go to lunch at the Park Plaza, while we
13 are having coffee we will see if we can line up
14 rooms, as we did before, for the sub-committees.
15 We are due at the Park Plaza at 12.45, so that we
16 leave here about 12.30.

17 I have, as I propose to do at each of these
18 meetings from now on, I have invited some members
19 of the Cabinet and, as we go along, I would like
20 to invite members of the senior Civil Service to
21 have lunch with us. I invited the Minister of
22 Education, the Attorney General and the Provincial
23 Secretary today. The only one I know is coming
24 for certain is the Provincial Secretary. The
25 Minister of Education is out of town and I have
26 not heard from the Attorney General.

27
28 ---- AT 11.10 the meeting recessed, after which
29 it reconvened in sub-committees, resuming in
30 full committee at 3.45 p.m.

1
2 THE CHAIRMAN: Let us see what has come
3 out of the mill. Who is going to speak for
4 group one, please, the constitutional.

5 PROF. CREIGHTON: Our rapporteur.

6 THE CHAIRMAN: Very good, sir.

7 DEAN LEDERMAN: When we met this morning,
8 Mr. Chairman, we dealt with the proposal of the
9 planning committee. We discussed the length of
10 the proposed papers. It was agreed that two of
11 the four papers -- the one on provincial governments
12 and international agreements and the one on the
13 Supreme Court -- that these papers should be
14 relatively short and prepared with a view to
15 providing some immediate background for Mr. Robarts.
16 We confirmed the proposals of the planning committee
17 that Professor Laskin should prepare the paper on
18 international agreements and Professor McWhinney
19 the paper on the changes proposed in the Supreme
20 Court.

21 We also agreed with the plan for the
22 preparation of the more complex and lengthy range
23 study on federal-provincial conferences over the
24 years. This is to be done by Mr. John Laskin
25 under the direction of Prof. Brady. That would be
26 a more lengthy range and more elaborate study than
27 the others.

28 We also agreed to the proposal that I should
29 supervise the preparation of a paper at Queen's on
30

1
2 the idea of constituent assemblies. The emphasis
3 here would be on historical examples of constituent
4 assemblies, what their nature has been.

5 Also the planning committee suggested that
6 at Queen's we should address ourselves to the
7 problem of the Canadian Senate and second chambers
8 generally, and we are prepared to do that also
9 during the summer.

10 So we have agreed substantially with what
11 the planning committee asked that we do, and we
12 are prepared to do it.

13 This afternoon we addressed ourselves to
14 the question of whether there might be other
15 topics we ought to deal with, other suggestions
16 we ought to make. We have two further suggestions
17 to make: One, that a short background paper
18 should be prepared on the constitutional monarchy
19 in Canada and the provinces, a short background
20 paper on that subject, and we were suggesting that
21 Dr. Eugene Forsey might do that. This is a topic
22 that might well have some immediate concern for
23 the Prime Minister.

24 There is another topic that we thought
25 ought to be placed on the agenda, though we do not
26 contemplate any immediate work on it, and that is
27 the problem of especially entrenched Bill of Rights,
28 fundamental rights and freedoms in the constitutional
29 sense -- especially entrenched Bill of Rights,

1
2 fundamental rights and freedoms. This is a topic
3 that may work up some time in the future, though
4 we do not think it is immediate at the moment and
5 we are not proposing to work on it this summer.

6 That is the report, Mr. Chairman.

7 THE CHAIRMAN: Thank you very much. Before
8 we have discussion, there are two comments I should
9 make before I forget.

10 First of all, with respect to the paper by
11 Prof. Laskin, the sub-committee that met Monday
12 asked me to discuss this topic with Mr. Robarts to
13 see if he felt particularly concerned about the
14 present developments, and he said that it was not a
15 thing that he felt was of long run concern to him
16 and he was not proposing going out seeking any
17 international treaties tomorrow. On the other
18 hand, he felt he would be most grateful, particularly
19 grateful to Prof. Laskin, to have this paper at as
20 early a time as possible for him; that undoubtedly
21 he would be placed in a position to comment on
22 this from time to time and perhaps, in particular,
23 at the conference of Prime Ministers at the end of
24 May. So that he certainly was most enthusiastic
25 about the proposal that this be done.

26 Secondly, to Dean Lederman, I talked to
27 Prof. Meisel in Ottawa two days ago about the two
28 Queen's students and about the proposal for the
29 paper on the constituent assembly, and he asked

me to ask you to get in touch with him when you get back, or he would be in touch with you, so that you might talk about these students and be assured that they were agreeable, if this is agreeable to you. Alternatively, you might have someone else you wanted to fill it.

Are there any points of discussion?

PROF. FOX: I would be interested in hearing what your sub-committee thought about length. You mentioned it at the beginning.

DEAN LEDERMAN: Well, we thought that the papers should be quite short; that they are not academic research papers, but short background papers designed to be read readily in the time available for a man as busy as the Prime Minister. So we contemplate something quite short and not the usual academic research paper or journal article kind of thing.

PROF. FOX: I see.

DEAN LEDERMAN: From eight to ten pages, this kind of thing, would you think? The subject will dictate its own length to the writer to some extent when he gets into it, but our idea was that an effort would be made to keep it quite terse.

PROF. CREIGHTON: Would that apply to both categories?

DEAN LEDERMAN: No, this did not necessarily

1 apply to the working papers.

2 PROF. CREIGHTON: This would hardly apply
3 to the working papers.

4 THE CHAIRMAN: I take it you meant the short
5 papers by members of the Committee.

6 DEAN LEDERMAN: Yes, this refers to the
7 papers by Prof. Laskin and Prof. McWhinney.

8 THE CHAIRMAN: And Prof. Forsey.

9 DEAN LEDERMAN: It also applies to the one
10 Dr. Forsey is going to do, yes.

11 DR. FORSEY: The things are marked there as
12 short papers, and then this has been suggested to
13 me. The Federal-Provincial conference paper and
14 the constituent assemblies and the Senate are going
15 to take more space.

16 THE CHAIRMAN: Yes, this will be dictated by
17 the problems that emerge, I suppose, as the
18 research proceeds.

19 PROF. FOX: That is fine, thank you.
20 That is all I wanted to know.

21 DR. FORSEY: I think there was a suggestion
22 that one of these short papers might conceivably
23 run to twenty pages, wasn't there; that was the
24 outside limit that we heard mentioned in committee.

25 DEAN LEDERMAN: I suppose we were talking
26 about ten to twenty thousand words, this kind of
27 thing.

28 PROF. McWHINNEY: Ten to twenty thousand words

1
2 is quite a different dimension. That would be
3 thirty to sixty pages.
4

5 DEAN LEDERMAN: Well, ten thousand words.
6

7 PROF. McWHINNEY: That is still thirty
8 pages. If you speak of ten to twenty, that is
9 about six or seven thousand.
10

11 PROF. CREIGHTON: Couple of hundred words to
12 a page and twenty-seven lines of typescript.
13

14 PROF. McWHINNEY: Five thousand words is
15 fifteen pages in general.
16

17 DR. FORSEY: I am sorry I spoke, but I think
18 somebody said about the short paper running ten
19 to twenty pages. Then you said eight to ten and
20 I wondered.
21

22 DEAN LEDERMAN: I am a little out on my
23 wording. I am really thinking in terms of the
24 pages, not thousands of words.
25

26 THE CHAIRMAN: I think the real governing
27 factor is the importance that they be read and
28 digested by a busy person.
29

30 PROF. BRADY: That is the point to stress,
31 Mr. Chairman.
32

33 THE CHAIRMAN: Certainly a great deal of
34 background is not required. It is simply to
35 come to the point and not in the air.
36

37 This is another thing. I presume these
38 papers would come to me and go directly into the
39 Prime Minister. As far as the longer-term
40

research papers, I think it was the view of the sub-committee the other day that when the work has been done on these projects and completed, that they should come forward to the full Committee here in advance of a meeting, and then we could use this research paper for a discussion by the full committee and put forward advice based on these facts and that evidence that we wished to advance.

PROF. FOX: Well, I do not have any clear recollection. I am glad you raised the point, because I do not recall differentiating between the two.

THE CHAIRMAN: I don't think we did.

PROF. FOX: The impression left in my mind was that all papers, whether prepared by Bora or Brady or anyone, would come before the full Committee, but it may be well to alter that. I don't know.

THE CHAIRMAN: I think the question here is that if the purpose of the short paper is to get advice in quickly, it is in a different category, but I don't know what ---

PROF. LASKIN: Could it come before the sub-committee which is the representative planning committee of the appropriate section?

DEAN LEDERMAN: Mr. Chairman, my impression, I think that our discussion in the constitutional sub-committee proceeds on the footing that all of

1 these papers, the short ones and the longer ones,
2 would be considered in the Advisory Committee here,
3 and that one of their principal functions would be
4 to help us to decide what further and more
5 detailed studies might be needed.
6

7 Now, short papers could also go straight on
8 to the Prime Minister, if you wanted them to, and
9 without waiting for this Committee to meet; but
10 I think eventually they should come to this
11 Committee too with a view to being the launching
12 pad for further projects.
13

14 DR. FORSEY: The only question really that
15 arises is whether, if there is going to be a
16 meeting at the end of May and the Prime Minister
17 says: "Look, I understand you have done something
18 on such and such which I think is coming up.
19 Do I have to wait until the fall to see it?" and
20 I think the answer is "No".

21 PROF. McWHINNEY: If they are signed they can
22 go forward as the views of the particular person
23 who is presumably competent. They are not
24 certainly the views of the Committee until they
25 have considered it. But the distinction only
26 becomes important so far as you want to gather
27 the extra experience of the Committee and make it
28 then a Committee report on the particular thing.
29 I think it would solve itself this way, would it
30 not?

1
2 PROF. McWHINNEY: Initially they presumably
3 go to the Prime Minister as personal papers with
4 such emergency general considerations as you may
5 feel necessary.

6 PROF. LASKIN: Would come to you,
7 Mr. Chairman, and leave it in your hands as to how
8 you deal with it.

9 THE CHAIRMAN: If I might request that all
10 papers come to me, the short ones and the long
11 research papers will certainly come before the
12 Committee for the purpose of launching further
13 questions of examination; but to the extent that
14 I feel the material will be necessary and helpful
15 to the Prime Minister in advance of the plenary
16 meeting, that I might either directly or in
17 consultation with the working committee, depending
18 on who is available and other practical considerations,
19 advance it to him.

20 Are there any other points from that
21 committee? Turning to the economic and fiscal,
22 the sudden departure of Mr. Perry to assist in
23 preparing the Carter Commission in its final
24 report, left me in the position of trying to give
25 the report from this sub-committee.

26 We approved the programme number (5)to(7) and
27 we spent our time trying to define a little more
28 closely the questions that we were seeking to
29 answer in those three areas.

1
2 First of all on economic regionalism, we
3 felt that the first thing that should be done here
4 is to conduct a review of various regional and
5 provincial programmes of economic development,
6 economic planning, of purchasing policy, of tariff
7 protection -- all of those provincial economic
8 matters which are relatively recent in origin and
9 which affect the economic development of the
10 province but may raise questions about conflict
11 with national policies, with a view to answering
12 two questions. First of all, what are the costs
13 and benefits of those types of programme in an
14 economic sense? How far is it advisable to try
15 a
16 and fortify/certain economic area of a province
17 or region; and what cost does this impose on the
18 national structure? Secondly, with a view to
19 concluding about which programmes and which
20 activities appear to be directly in conflict with
21 the things which are better to be done by national
22 policies.

23 Then on (6) we felt that question 6 involved
24 four questions really. The question of co-
25 ordination of policy: First of all to what ends
26 should policy be directed? We have tried to
27 see what associated economic activities policies
28 should be supporting in this country.

29 Then, secondly, when and how should
30 co-ordination of economic policy take place? For

1
2 example, how far can you contemplate moving in
3 the direction of co-ordination of policies in the
4 provincial fiscal field with national fiscal
5 policy?

6 Then, thirdly, what are the reasonable
7 limits to be to the decentralization of economic
8 policy that appears to be taking place in this
9 country? We felt that it would be useful, for
10 example, if one came to the conclusion that a very
11 clear unequivocal stand should be taken that
12 monetary policy must remain the preserve of the
13 federal government and should not be diluted by
14 provincial governments. What are the limits of
15 decentralization of economic policy?

16 Fourthly, what policies should be developed
17 on the basis of consultation with the provinces
18 and what policies would be better developed without
19 consultation with the provinces.

20 PROF. BRADY: Did you consider budgets there?

21 THE CHAIRMAN: No, we are not thinking of
22 budgets. We are thinking more of this type of
23 thing, that a policy such as the automotive scheme,
24 for example, is designed in the federal wording
25 and under federal jurisdiction, but the force of
26 application and the results of the policy are
27 felt in Ontario, where over 90 per cent of the
28 industry exists, where the effect on labour, on
29 industry, on the communities and everything else,

1
2 is felt; and that in designing these things there
3 should be some anticipation of the consequences
4 so that the provincial jurisdiction which has to
5 cope with them can be equipped to cope with them
6 or can point out some of the difficulties that
7 are going to occur.

8 On the other hand, we felt that there are
9 perhaps a number of areas where co-operative
10 federalism, so to speak, is overdoing it by
11 putting the federal government in a position of
12 feeling obliged to consult with the provinces in
13 some area where this might be unnecessary and
14 inappropriate. We thought we could be in a
15 position to say something about that.

16 That is a pretty big question, but really,
17 you know, this question, I feel, is a terribly
18 important one. It certainly is an important one
19 to me, because, as you know, the Speech from the
20 Throne announced great endeavours in this direction
21 of co-operative economic policy.

22 Co-operative federalism there seems to me
23 as working this way, that the federal government
24 has the designed agenda for the items that should
25 be discussed at the Prime Minister's conference
26 at the end of May, and in a sense this is really
27 saying to the provinces: "Here is what we think
28 you should be doing and how far we should be
29 going and how far you should be going". I think

1
2 that the Prime Minister of this province should
3 be prepared to go to these conferences with a good
4 background of what he thinks the limits should
5 be or the degree of co-operation should be and
6 so on.

7 Then finally we felt very strongly that
8 this paper on the economic and financial
9 implications of opting-out was an important one
10 to get on with. What should the criteria be for
11 opting-out? What should the economic basis be
12 for establishing opting-out policies? How far
13 does opting-out go before it leaves co-operative
14 federalism in the sense of co-operative programming,
15 and leading into a state of affairs where you
16 simply have separate states doing the same job in
17 the same country?

18 We felt there are really three categories.
19 There are those programmes which are clearly
20 carried out by the federal government. There are
21 those programmes which are carried out by the
22 provincial government. There are a number of
23 programmes in the middle which are done on a joint
24 or shared cost basis and so on under current
25 powers, but if you introduce to that area opting-
26 out then you introduce a new type of problem and
27 perhaps Ontario should be in a position of saying
28 very quickly: "What is a reasonable limit to
29 that process for the various reasons, not only

1 economic but social and political?"

2
3 DR. FORSEY: May I ask what exactly you mean
4 by current powers? Are you thinking of current
5 powers in the narrow legal sense or are you
6 thinking of the sort of thing as the ~~grant-in-aid~~
7 business?

8 THE CHAIRMAN: No, we are thinking more
9 of ---

10 PROF. LASKIN: Current functions.

11 THE CHAIRMAN: Current functions is a better
12 term.

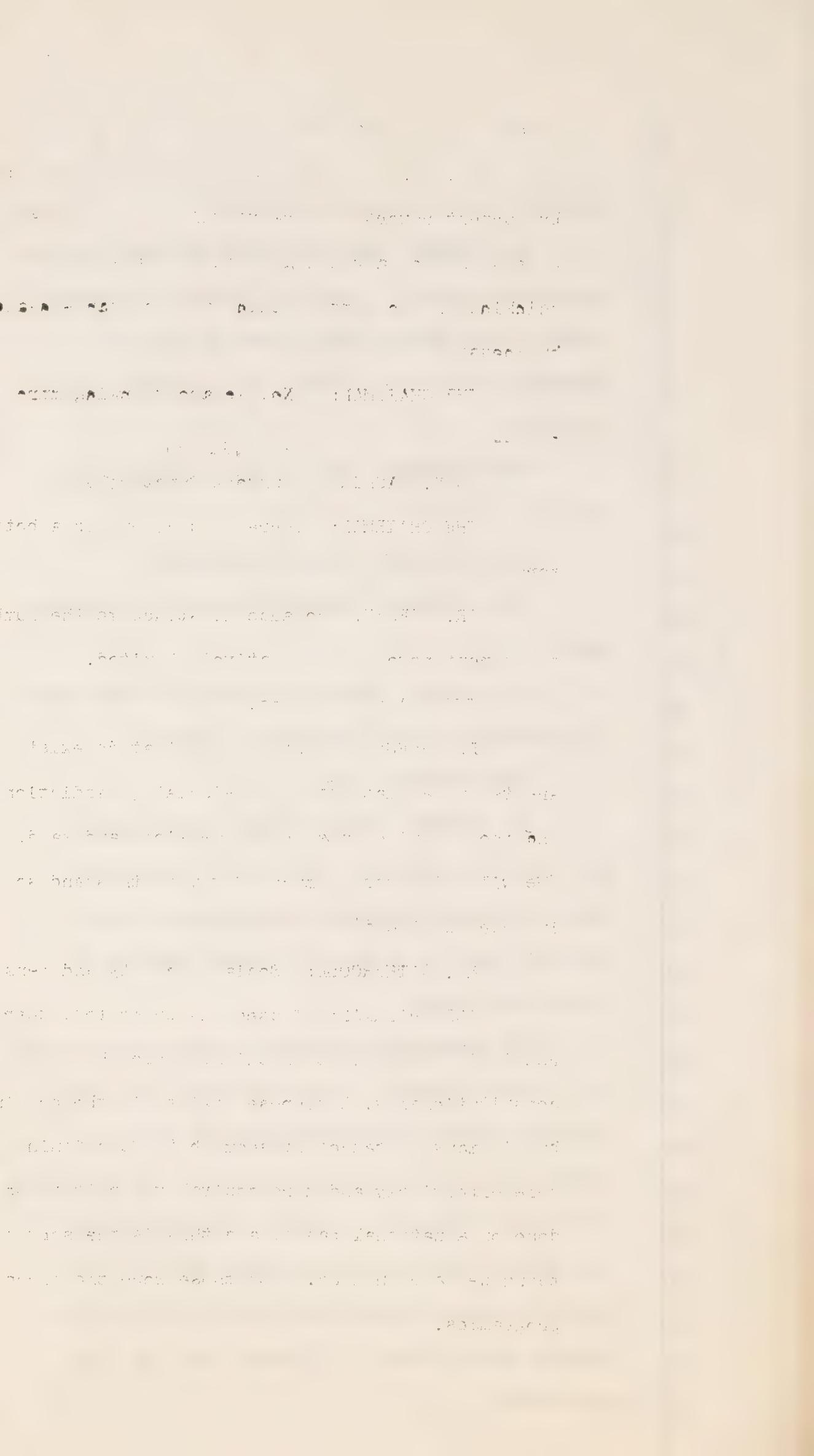
13 DR. FORSEY: Because it struck me the number
14 of current powers are relatively limited.

15 THE CHAIRMAN: Yes.

16 DR. FORSEY: Most of them that do exist
17 are technical matters of provincial jurisdiction
18 and the Dominion has simply come along and said:
19 "We will give you so much if you do thus and so
20 in your own field".

21 MR. GATHERCOLE: Social security and pensions.

22 THE CHAIRMAN: I used the wrong term there.
23 Really it is the sort of things where the power
24 constitutionally, I suppose, exists in the provinces,
25 but in many instances it seems both functioning
26 more effectively and more equitably for it to be
27 done on a national basis, and this is the sort of
28 thing we have in mind. So those were the three
29 programmes.



1
2 Then at the very end there is a new item.
3
4 We suggested that it would be well worth looking
5 into the question of a national capital as a
6 bi-lingual, bi-cultural entity.

7 PROF. LASKIN: That is on the B-B agenda,
8 you know. I believe it may militate against our
9 doing it.

10 THE CHAIRMAN: There are two points came
11 up in the sub-committee I noticed. First of all
12 it was a question, it has been pointed out there
13 are some very important economic and fiscal
14 ramifications to this.

15 Secondly, if we thought it was a worthy
16 and important gesture, that it was a thing that
17 might come more easily from Ontario than from the
18 federal government.

19 PROF. BRADY: Essentially, in other words,
20 that Ontario should examine and know what its
21 interests are in this.

22 THE CHAIRMAN: If you say the B-B people
23 are looking at it, this might be one of the
24 considerations where the student doing the work
25 for Prof. Meisel might be able to get some of
26 the material.

27 PROF. FOX: I am not sure it is under
28 the topics though of seven or eight subdivisions.
29 I am not sure it is under the subdivision that
30 Meisel is superintending, but we can readily find

1 out.
2

3 PROF. LASKIN: I say that because they asked
4 me to do a legal paper on it, and I was waiting to
5 hear from them on some of their background material,
6 but they have been a long time coming to it.
7

8 In the meantime there was a recent decision
9 of the Exchequer Court of Canada referred to in
10 the newspapers about two days ago, which is the
11 first decision dealing squarely with the
12 constitutional validity of the present National Capital
13 Act which was passed in 1958 and which defines the
14 capital district as something like 1800 square
15 miles.
16

17 This arose out of a complaint by an Ottawa --
18 at least outside of Ottawa -- landowner, in an
19 outside township, who complained about the taking
20 of his property, and although he admitted that
21 he was really concerned about the amount of
22 compensation that he was getting, carried with that
23 a position on the constitutional issue.
24

25 Unfortunately, he did not win in the Exchequer
26 Court, so I imagine it will be going to the Supreme
27 Court of Canada.
28

29 It raises a very critical question as to
30 how far Ottawa can, if at all, unilaterally define
a capital district, which they might say will
extend from Halifax to Vancouver.
31

32 THE CHAIRMAN: Yes.
33

1
2 PROF. CREIGHTON: Does he object that he
3 was left out or left in?

4 PROF. LASKIN: Oh, he was objecting that
5 he was not being paid enough.

6 PROF. CREIGHTON: I see. That was hardly
7 your point as you said.

8 PROF. LASKIN: But one way in which he
9 can invalidate an expropriation was to invalidate
10 the legislation.

11 PROF. CREIGHTON: But was he in or out of it?

12 PROF. LASKIN: He was in. He was within
13 the defined capital district, and there was
14 argument as to interfering with the provincial
15 zoning legislation, because here was Ottawa
16 defining a green belt.

17 PROF. CREIGHTON: And they threw it out in
18 the Exchequer Court?

19 PROF. LASKIN: No, they upheld the validity
20 of the federal act. They say nowhere in the
21 B.N.A. Act is it dealt with except in the one section
22 which says that until the Queen otherwise decides,
23 the capital of Canada shall be Ottawa. The nice
24 problem is does that mean Ottawa as defined by
25 the Ontario legislature according to its present
26 municipal limits? Is that a constitutional
27 prohibition in any event?

28 PROF. CREIGHTON: I don't know about that,
29 but it seems extraordinary that they upheld the Act.

1
2 PROF. LASKIN: Wasn't extraordinary to me.
3 I thought they would. The Supreme Court may
4 have other views. There is an old history to that,
5 you see, as you know, because Ottawa has really
6 done something about this since 1899 when they just
7 dealt with capital improvements.

8 THE CHAIRMAN: It seems to me this becomes
9 more and more complicated. I wonder if I could
10 put it this way, that this Committee here agrees
11 in principle about the importance of this subject,
12 if it would give the sub-committee power to advance
13 the practical means of getting at the problem.
14 Do you want to consult with Professors Meisel and
15 Fox and Laskin about what is exactly going on in
16 the B. and B before we get too far in following and
17 working on this?

18 PROF. McWHINNEY: I take it if we consider
19 things are important, this is important from the
20 viewpoint of and we advance our own interests, the
21 province, some of the members here may wear two
22 hats -- the Dominion interest and the provincial;
23 but the most that you are suggesting is, I take it,
24 that if research is immediately available, we might
25 be given access to it, research by B and B. I
26 take it that otherwise what B and B is doing will
27 in no way inhibit or restrict anything we do.

28 THE CHAIRMAN: No, I wouldn't think so.
29 Our only concern would be not to duplicate.
30

1
2 PROF. McWHINNEY: Where research is
3 available.

4 THE CHAIRMAN: Yes.

5 PROF. BRADY: I think this is a pretty
6 important topic, Mr. Chairman, and one on which
7 the Committee ought to be presenting advice to
8 the government of this province, no matter what
9 the B-B do.

10 PROF. CREIGHTON: Hear! Hear!

11 THE CHAIRMAN: Of course, the qualification
12 I was introducing there was simply to check with
13 them first to find exactly what work is underway,
14 to avoid duplication; but having found that out,
15 that we should nonetheless get on with our job.

16 PROF. McWHINNEY: The avoiding of
17 duplication is simply an economy measure in relation
18 to the availability of personnel.

19 THE CHAIRMAN: Yes.

20 PROF. McWHINNEY: Nothing more.

21 THE CHAIRMAN: That has to be the governing
22 principle in Canadian life today with all the
23 conditions that exist.

24 MR. GATHERCOLE: I think, Mr. Chairman,
25 that we have to be a little bit careful about this,
26 from the point of view of the broad financial
27 implications which would flow from this suggestion,
28 if we are implicated, which would, unless there
29 were compensating adjustments, result in the
30

2 reduction of the tax revenue of Ontario which would
3 in turn, because of the equalization principle
4 which is in effect with respect to the other
5 provinces, reduce the amount of the abatement
6 to each of the other provinces, and therefore
7 takes revenues of each of the provinces.

8 In interjecting that, I am not in the
9 slightest suggesting that we should not be looking
10 at it, but all I am saying is that there are
11 some pretty far-reaching implications to advancing
12 this proposal.

13 THE CHAIRMAN: I wonder if any member of
14 the Committee feels sufficiently concerned to
15 contemplate supervising such a study?

16 PROF. CREIGHTON: Well, if they make up
17 their minds, Mr. Chairman, could you tell us what
18 people you designate to supervise the other
19 studies? You have mentioned one of them.

20 THE CHAIRMAN: I am sorry. The first one,
21 economic regionalism, one of the summer students,
22 we have hired Mr. Goudge, and we will ask him to
23 work on that. Since he will be with the Department
24 of Economics and Development, the direct work
25 would be supervised by myself and Mr. Stevenson.
26 As you recall, we tried to recruit both Mr. Perry
27 and Professor McIvor to that, but they are both
28 busily finishing up their taxation committees,
29 but they agreed to work with us as advisers.

The other two subjects, we have work that can proceed in the Department of Economics and Development by the regular staff or by some of the summer students, but I think we should still perhaps assign a member of this Committee to be involved in that, Don, don't you? George, would you like to be associated with that in the capacity as an advisory supervisor?

MR. GATHERCOLE: I don't mind having somebody coming to see me to ask my personal opinion about things, or to tender some advice, and I would be available to do so, but beyond that I am sorry to say I have enough things to do that I cannot undertake anything beyond that.

THE CHAIRMAN: In these matters, as I say, the work here is being done in the Department of Economics and Development, and Mr. Stevenson and I are really available on a daily basis for supervision, but I think a member of the Committee ought to be attached here as an adviser, as we have done with Perry and McIvor on the first.

MR. GATHERCOLE: I will be glad to fill in in that role.

THE CHAIRMAN: And we might perhaps recruit Dean Dillon in the same capacity for the opting-out one, if you agree to be associated with that in that way. This will give Don Stevenson and myself another person to consult with as the work

goes along.

PROF. BRADY: Would you be able, Mr. Chairman, to get somebody in the Department to do the donkey work?

THE CHAIRMAN: Yes. You see, we have several other good summer students coming in to the Department and a lot of this work I hope to get going anyway and that is what I want them to do.

I think we will leave this capital project for the moment until we have had a chance to sort out some of the details, and then come back to it.

John, have you any interest in this area?

PROF. CONWAY: Certainly I am not particularly competent in it. It is very interesting. I don't know what is involved.

THE CHAIRMAN: Perhaps as we see the thing develop I can get to it that way.

PROF. CONWAY: Yes.

THE CHAIRMAN: And see what could be used there.

DEAN DILLON: Mr. Chairman, is it your intention that the question of the development of a capital district be studied under the three broad areas that have been set up with the sub-committees? In other words, it is not only to be an economic ---

THE CHAIRMAN: No, I think it has to be

2 | treated in each of the three categories,
3 | sociological, political and so on.

4 | DR. FORSEY: I take it, on Dean Dillon's
5 | suggestion, you might want to have for each
6 | committee more than one adviser associated with
7 | them.

8 | DEAN DILLON: My thought was that perhaps --
9 | I don't know whether sub-committees are going to
10 | continue operating, but if each sub-committee
11 | could bring itself to bear on this, it could be
12 | covered that way before it was brought together,
13 | and then considered as a whole.

14 | THE CHAIRMAN: That is rather a good idea --
15 | have one aspect under each of three authorities.
16 | It would be a variation on the aspects. Who would
17 | do the work in these three areas?

19 | PROF. FOX: You would have to perhaps have
20 | somebody in each of the three areas responsible
21 | for that aspect. In other words, anyone simply
22 | concerned with the Federal District Commission
23 | would report to somebody in your Committee and so
24 | on.

25 | PROF. BRADY: Mr. Chairman, while Prof.
26 | Laskin is interested in the legal problems involved
27 | here and while he has another assignment, perhaps
28 | later on he might be glad to bring some views and
29 | guidance on this.

30 | THE CHAIRMAN: As I say, I think the

1 mechanical arrangements here are becoming a little
2 more complicated, and I think if there is agreement
3 in principle on this point I would like to not
4 detain us too long here on it and work this out
5 with the sub-committee when we have a chance to
6 define it a little more carefully, because it
7 came up rather towards the end of our sub-committee.
8 I think it has to cover all areas.

9
10 PROF. BRADY: There is the point, of course,
11 Mr. Chairman, that the Committee should not in its
12 enthusiasm try too much for the first few months.

13
14 THE CHAIRMAN: I will take that advice.
15 Perhaps if we may go on, are you doing this,
16 Paul?

17
18 PROF. FOX: Professor Brady was out of
19 the room, and I acted as chairman. Don Stevenson
20 is our rapporteur, so I think he may be able to do
21 that.

22
23 MR. STEVENSON: We dealt very quickly with
24 projects 8 and 9. Project 8 was for one of the
25 Queen's students to do a report, working paper,
26 on the various points of view from Ontario
27 interest of briefs to the B and B Commission. It
28 was suggested that this be done by August 1st, and
29 that if the supervisor felt that there were one
30 or two points of particular interest, it should
be followed up in greater detail; that this
should be carried on during the balance of the

summer holiday.

It was also felt as a general question that the cultural sub-committee might meet prior to a full meeting of the Advisory Committee in September, to discuss the summer research, so as to have advance opinions and comments before the full Committee.

As far as item 9 was concerned, Professor Fox said that he had checked through the research agenda of the B and B Commission and saw no evidence of a report being prepared on existing exchanges between French and English Canada. So the group decided that it would be most useful for such a report to be done, and after some discussion it was agreed that for the general subject of exchanges in all walks of life, all types of organizations, that a project under the supervision of Father Matte might be undertaken, probably by some student at the Laurentian University.

Arising out of this discussion of exchanges, we got into the question of cultural exchanges and possible role for the Ontario Arts Council, of which Mr. Seguin happens to be a member.

It was agreed, after some discussion, that President Symons might arrange to have a very short paper done on the possible role of the Ontario Arts Council by promoting cultural exchanges; perhaps by financing French-Canadian groups coming

1
2 to Ontario and vice versa, and also in the multi-
3 cultural side of affairs.

4 Coming to No. 10, the cultural committee
5 agreed very much with the research committee which
6 met Monday, that education must take top priority
7 among the research projects in the whole area of
8 cultural relations.

9 The kind of research projects that would be
10 done in education turned out to be a rather massive
11 affair. It was agreed they would be done
12 generally under the supervision of Professor Fox,
13 but we had a number of useful suggestions from
14 committee members as to people who might carry out
15 research.

16 Mr. Seguin told us that Mr. Roland Beriault
17 will be with the Department of Education as of
18 next month on the Minister's Special Advisory
19 Committee on Educational Policy. Mr. Beriault
20 was formerly administrator of the French Canadian
21 School Transfer Association of Ontario, and
22 probably is as well informed on the present
23 extent of French language instruction in Ontario
24 as anyone; that we should be able to get a
25 great deal of information from him.

26 As far as a working paper, it was agreed
27 that Mr. Jack Leduc from Ottawa would be an
28 excellent man for this report. He is a teacher
29 who is available this summer, but who also has

1
2 a good background in the separate school French
3 language situation in Ontario.

4 We went through the different problems of
5 French language instruction in primary schools,
6 secondary schools and universities.

7 In primary schools the important area right
8 now is taxation and the allocation of taxation
9 among French language separate primary schools.

10 In secondary schools the tax question
11 remains because there are no publicly supported
12 French language schools in Ontario now.

13 DR. FORSEY: There are, or I should say
14 were, or we have been very seriously misinformed.

15 MR. STEVENSON: Except Welland.

16 in

17 DR. FORSEY: Our understanding/the committee
18 with which I am associated, in Ottawa there are
19 some forty odd.

20 MR. SEGUIN: There are forty secondary
21 public schools privately supported and convents,
22 colleges.

23 DR. FORSEY: Public schools?

24 MR. SEGUIN: No, private secondary schools,
25 not public.

26 DR. FORSEY: We have been informed there are
27 some forty public schools.

28 MR. SEGUIN: There are four. There are
29 two in Russell and Prescott and one in Eastview.

30 DR. FORSEY: Secondary, are you saying, only?

2
3 MR. SEGUIN: Secondary schools supported by
the public, there are four.

4 DR. FORSEY: We were told there are some
5 forty.

6 MR. SEGUIN: There are not.

7 DR. FORSEY: Elementary public schools.

8 MR. SEGUIN: Oh, elementary public. Talking
9 about secondary.

10 DR. FORSEY: You are talking only about
11 secondary?

12 MR. SEGUIN: There is not forty in the other
13 one.

14 DR. FORSEY: The Department of Education
15 has been misinforming us.

16 MR. SEGUIN: Because there is not forty.

17 PROF. McWHINNEY: You should correct that.

18 MR. STEVENSON: It was apparent that these
19 large education studies included most of the topics
20 which were discussed under education at the last
21 meeting of the Advisory Committee in March, which
22 included the question of availability of teachers,
23 the problems of accreditation of teachers who
24 had been educated in Quebec.

25 One additional point was brought up, that
26 it might be useful to have in the report a short
27 summary of the extent of English language instruction
28 in Quebec schools.

29 After discussing the education question
30

1 generally, we spent a little time on the other
2 areas that the cultural committee discussed at the
3 last meeting. It was felt that these were
4 important, but that we should devote resources to
5 the education question now and get into other
6 questions as we had time and resources.

7
8 The areas particularly mentioned were the
9 question of French as an administrative language
10 in areas of French language concentration in
11 Ontario, road signs; some questions resulting from
12 the list of grievances which have been presented in
13 the brief by the Franco-Ontario Society; such
14 questions as mixed marriages, the disposition of
15 funds from an estate, and a few others. I think
16 that is all for now.

17 DR. FORSEY: Mr. Chairman, may I suggest,
18 when you get the information under (10), you should
19 seek to get what you can on the possibilities,
20 the existence and the possible existence under the
21 law and regulations of French language public
22 schools. I have a personal interest in this,
23 but it is beside the point because I think that it
24 has been suggested, certainly suggested in my
25 hearing by French Canadian friends of mind who are
26 themselves devout practising members of the Roman
27 Catholic Church, that the possibility of French
28 language public schools is of some importance;
29 that some of the opposition to French language
30

2 schools in some parts of the country is partly
3 based on the assumption that a French language
4 school is necessarily a separate school.

5 Now, this is not in any sense to suggest that
6 there is opposition to separate schools. It is
7 simply that there are now a growing number of
8 French Canadians who are not always too enthusiastic
9 about confessional schools, and the question may
10 arise about whether there should be some provision
11 for this; whether in fact there is in the Ontario
12 law some provision for this, precisely what it is
13 and so forth.

14 We find in connection with our efforts in
15 Ottawa, we find some of the officials extremely
16 coy about certain aspects of things. The ones here,
17 top officials here, are very nice and co-operative,
18 but some of the local officials in Ottawa have a
19 tendency to pull out of the hat statements that
20 the Act prohibits this, and the regulations prevent
21 that, and we say: "Show us the section of the Act,
22 show us the regulations" and then they just talk
23 it out about the position of the Department and
24 the law and the regulations and we don't get any
25 further forward.

26 I think that all this is worthy of some
27 investigation and worthy of investigation in this
28 context of the attitude of local Boards and local
29 officials. We sometimes see what perhaps is
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2 departmental policy of just dragging their feet
3 or becoming both obstreperous and vain at the
4 same time.

5 THE CHAIRMAN: I talked to Mr. Robarts
6 Monday after the research committee meeting. He
7 attached great importance to this education study,
8 and he said he would like to meet Mr. Davis and
9 myself and those who were involved in it, to have
10 a meeting to talk about it. I think this is very
11 high priority in this area.

12 PROF. FOX: If I may just say this, if
13 I may, that the feeling of the sub-committee was
14 that we should begin with a very factual study;
15 that we are not pre-judging what should or should
16 not be, but we will try to present to this Committee
17 what the facts are first of all and then go on from
18 there.

19 PROF. LASKIN: Do you include the law?

20 PROF. FOX: To the best of my ability to
21 interpret it, but I presume we will leave it up to
22 the more eminent legal figures in our committee to
23 work out. I would think the relevant sections
24 ought to be presented in this kind of brief.

25 PROF. LASKIN: I do not raise it to be
26 provocative in any way, but simply to raise the
27 question whether the full range of the judicial
28 provincial powers has really been raised.

29 PROF. FOX: I think this is one of the major
30

1 questions in the whole thing. There seems to be
2 such a veil of mystery over it, but I am interested
3 to find out what the facts really are, what the
4 possibilities are, before we decide what ought to
5 be done.

6 PROF. LASKIN: I think it is going to involve
7 you in the same kind of high cornered operation
8 as the thing about the capital district.

9 THE CHAIRMAN: It may.

10 DR. FORSEY: This could be terribly
11 important for the whole country, not merely for
12 Ontario.

13 PROF. BRADY: Yes, it is a matter of
14 strategic national importance, I think, from the
15 point of view of the policy relative to bilingualism.

16 DR. FORSEY: I think it is more crucial if
17 we are really serious about trying to preserve one
18 country. If we are not prepared to pay a certain
19 price, then we are not really serious about it.

20 THE CHAIRMAN: Well, there is the programme
21 then. I suppose it remains now to look ahead. We
22 have not, I think, recruited every member of the
23 full Committee here some task, but I think that
24 as we work in these subjects, I am sure we will see
25 other areas that we want to have special assistance
26 on.

27 The question about where we go from here and
28 when we can most usefully next meet, is probably
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30

1
2 the next question. What is in my mind is whether
3 it would be more useful for the next couple of
4 months, to the extent that we have meetings, if these
5 were meetings of the sub-committees to either get
6 progress reports or to deal with questions that
7 come up in this research as it is in progress; or
8 whether within the next couple of months you see
9 the need for a meeting of the full Committee.
10

11 PROF. McWHINNEY: I think your first
12 suggestion makes eminent sense. The sub-committees
13 will probably have to meet, but at least until
14 they have had a meeting there seems to be little
15 point in having another plenary session.
16

17 PROF. LASKIN: Unless you call the research
18 committee together, the one which you called
19 together on Monday.
20

21 THE CHAIRMAN: Yes.
22

23 PROF. LASKIN: Which might have a chance to
24 look over the total programme. We are familiar
25 with the range of it, but we still have to pick
26 and choose, as you put it, where we go next, and
27 it might be left to the conclusions of that
28 Committee and in your own judgment what ought to
29 be done next.
30

31 PROF. FOX: Yes, I can foresee that there
32 may be a differential rate of progress here.
33 Some of the people might get their short papers
34 done and the constitutional committee may want to
35

1 have a meeting to get a quick bash at them,
2 whereas with the longer range projects such as
3 Professor Brady's and mine there may not be any
4 need to meet for a while.

5 I can say in my case it is going to be
6 difficult to get on it for a month until I get
7 something out of the way, so I think your first
8 suggestion was by far the best.

9 DR. FORSEY: I presume we want to have as
10 few meetings as possible. Let us not forget the
11 wise words of an old friend that heaven is a place
12 where there are no partings and no meetings. We
13 want to get as near heaven as we can.

14 THE CHAIRMAN: I think we are well launched,
15 and my goal will be to steer a middle course
16 between being an arbitrary bureaucrat and imposing
17 unduly on your time by proliferating meetings.

18 I do feel in a sense we are at a stage now
19 where we are ready to work, and we can work more
20 usefully through the consultations and the
21 supervision of the sub-committees.

22 For future reference, however, I suppose it
23 is not inconceivable that issues might arise that
24 we would want to contact the full Committee upon.
25 What was the Friday of the month we had agreed
26 would normally be ---

27 MR. SEGUIN: Third Friday.

28 THE CHAIRMAN: It bothered you, didn't it?

29

30

1 PROF. SYMONS: No, that is convenient to
2 me.

3 THE CHAIRMAN: It was the fourth Friday.

4 PROF. SYMONS: Fourth Friday is out for me.
5 THE CHAIRMAN: That perhaps settles the issue
6 for me very nicely, because it is the Friday
7 before the long weekend. I don't know whether
8 that worries you or not but I think if we could
9 re-affirm that henceforth meetings of the full
10 Committee, if and when called, would be the third
11 Friday of the month, and then agree to proceed
12 meanwhile under the sub-committees, that will
13 do it.

14 I would like to renew my invitation to you
15 all to join me at my home, which is only a short
16 walk from here and I will give you directions
17 before we break up, to join my wife and me for a
18 glass of sherry. It will have to be now, because
19 we are moving from that old part of the old city in
20 about six weeks time, so I hope you will come along
21 today.

22 Are there any other items of business that
23 you want to raise?

24 MR. GATHEFCOLE: Mr. Chairman, the third
25 Friday in June, that is Friday, June 25th, is
26 that correct?

27 THE CHAIRMAN: No, the 18th. If we were
28 needed to meet, that would be the day.

29

30

1 DEAN DILLON: You do not really contemplate
2 a meeting in May, then?

3 THE CHAIRMAN: I think the sense of the
4 meeting was that May would be unnecessary and
5 June too unless ---

12 PROF. LASKIN: Unless you decide it.

7 THE CHAIRMAN: Unless we feel something has
8 come up. We decided to establish the third
9 Friday of the month always as the statutory
10 meeting date, although not necessarily a meeting
11 each month.

12 DEAN LEDERMAN: Do we take it there is
13 no May meeting, and if there is to be a June
14 meeting it is to be the 18th?

15 THE CHAIRMAN: Right. No May meeting and
16 a meeting in June only at the call of the Chair,
17 and I think it unlikely because as far as I can
18 see the Chair is going to be in Ottawa for most
19 of that month at a variety of meetings.

20 Are there any other items of business?
21 There is just one point on the last date about the
22 B-B Commission.

23 PROF. McWHINNEY: I raised about your
24 liaison with them and perhaps to a certain
25 extent with the Quebec Committee. One of the
26 things that strikes me, that the programme you
27 have got landed in -- and it is in sense a
28 criticism -- is not really a fundamental research

29
30

1 programme, and I suppose this is the difference
2 between ourselves and the B and B and maybe one
3 of the reasons we may be more successful than
4 the B and B in that end; but it is also different
5 from the Quebec approach which seems to me to
6 operate at the two levels -- the ad hoc, the
7 immediate things, and also long range things. You
8 mentioned some business of co-ordination in
9 certain areas, didn't you, meetings with them.

10 THE CHAIRMAN: First of all, in the Quebec
11 business, Don was telling me that it was probably
12 their first report, that this was not a public
13 document. Someone was telling me.

14 PROF. McWHINNEY: That is the Quebec group.

15 THE CHAIRMAN: Someone was telling me the
16 other day that the Quebec Committee had produced
17 a report but it was not public, and there is
18 still the question of seeing to what extent they
19 are willing to talk to us.

20 I have done nothing about that. I did
21 have dinner with Mr. Laurandau one night, and
22 interest
23 he expressed considerable/in his Commission
24 meeting with our Committee at some point, but there
25 was no suggestion that that was going to be more
than fraternal.

26 We have been in touch with Mr. Neil
27 Morrison about materials. Don Stevenson saw him
28 when he was in Toronto and I did too.

PROF. FOX: I think somewhere in our minutes last meeting you mentioned getting clippings from the French Canadian press that were relevant.

THE CHAIRMAN: Right. Don, did you want to speak?

MR. STEVENSON: We are getting *La Presse* and *Le Devoir* in the office, and getting the appropriate clippings made. I am afraid we have not had time to get any reproduction for this meeting, but I thought that some that looked particularly appropriate we would have sent out along with the material such as you can get. If you like to look at some of them now ---

PROF. FOX: I am not implying any criticism. I am just hoping this can be realized.

THE CHAIRMAN: This is now underway, the clipping service from *La Presse* and *Le Devoir*. They are preparing the following items for us which we will be able to send to you. Editorial and news items relating to:

1. Federal-Provincial conferences
2. The Quebec Legislative Committee on Quebec's place in confederation.
3. Statements by Quebec Cabinet Ministers on all of these questions that concern us.
4. Items on the B and B Commission and on bi-cultural and bilingualism

generally.

5. The B.N.A. Act.
6. Important economic development in Quebec.
7. Any other items which relate to our work or to the work of the tax structure committee.

As we get set up we will send them out to you.

PROF. FOX: When will that begin from, the beginning of the year, say?

THE CHAIRMAN: The service was started, but we have been getting papers since about the beginning of April.

MR. STEVENSON: Yes, the last two or three weeks. There are a couple of interesting ones here that I think we should have sent out soon. Here is Yvan Marin with the Bill of Rights for Quebec on behalf of the Quebec Socialist Party.

PROF. McWHINNEY: It has actually arrived then.

MR. STEVENSON: And about the others, the latest controversy about the power of the provinces to sign international agreements is in here.

PROF. BRADY: Mr. Chairman, there is going to be a terrible lot of repetition unless ---

THE CHAIRMAN: We are trying to be as selective as possible, but I am afraid we won't do it thoroughly.

--- The meeting adjourned at 4.45 p.m.

